

ASSIGNED
Name HARBOR RURAL WATER DISTRICT
By P. O. Box 289 320 243-1
Address Harbor, Oregon 97415

Date filed January 28, 1966
Priority January 28, 1966
Action suspended until BC 2000
on 2-1-87
Returned to applicant
Date of approval February 23, 1967

CONSTRUCTION
Date for beginning February 23, 1968
Date for completion October 1, 1968
Extended to 10-1-74 10-1-79 10-1-84 10-1-87,
10-1-95, 10-1-2000
Date for application of water October 1, 1969
Extended to 10-1-74 10-1-79, 10-1-84 10-1-87,
10-1-95, 10-1-2000

PROSECUTION OF WORK
Form "A" filed March 18, 1968
Form "B" filed Oct 7, 1968 Nov. 21, 1985
Form "C" filed Nov. 21, 1985

FINAL PROOF
Blank mailed
Proof received
Date certificate issued

Application No. G 3361
Permit No. G G 3240
Certificate No.

Stream Index, Page No. 15-98
See file no. 44825

See map Bin #223
ASSIGNMENTS
Date 2-14-05 To Whom Harbor Water People's Utility District Address PO Box 2437, Harbor OR Volume 97415 Page OR

REMARKS
3.5 cfs from a well (Checto River) for domestic
MAR 1 1968 CARD FOR A
OCT 2 1968 CARD FOR B
OCT 27 1969 CARD FOR C
OCT 15 1974 CARD FOR B-C
JAN 16 1975 FORM 100
Card for BC OCT 2 3 1979
Card for BC OCT 1 9 1984
C Rem. 10/24/95
BC EXT.

FEES PAID
Date Amount Receipt No.
1-28-66 26.00 8353
EXT. 11-15-95 100.00 13028
5/14/03 100.00 59839
12/10/04 250.00 71788
2-14-05 25.00 72715
\$1 Cert. Fee

FEES REFUNDED
Date Amount Check No.
97415

NOTICE OF BEGINNING OF CONSTRUCTION

Application No. G3361
G3240I, HARBOR RURAL WATER DISTRICT, the holder of Permit No. G3240to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 6 day of June, 1986.

Remarks:

The appropriator should state the manner of beginning construction work, number of men employed, the amount of work completed

up to the date of this statement, and any additional information which may tend to show the beginning of work in good faith.

IN WITNESS WHEREOF, I have hereunto set my hand this 15 day of March, 1988.Albert Miner Chrmn. Bd Comm. P.O. Box 320 Harbor, Ore. 97415
(Signature of Applicant) (Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is begun.

SP-12928-119

Application No. G-3361

NOTICE OF COMPLETION OF CONSTRUCTION

I, HARBOR RURAL WATER DIST., the holder of Permit No. G-3240to appropriate the public waters of the state of Oregon, completed the construction of the works described herein on the 25 day of JUNE, 1988.

Remarks:

If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you

should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this 30 day of SEPT., 1988.Albert Miner, Chrmn. Bd Comm. P.O. Box 320 HARBOR, OREGON 97415
(Signature of Applicant) (Address)

Fill out, detach and mail to the State Engineer, Salem, Oregon 97310, when construction work is completed.

IMPORTANT—This form is a notice to the Water Resources Director that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when all of the water has been applied.

Application No. G-3361

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

Harbor Rural Water Districtthe holder of Permit No. G-3240to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the 7th day of November, 1985.

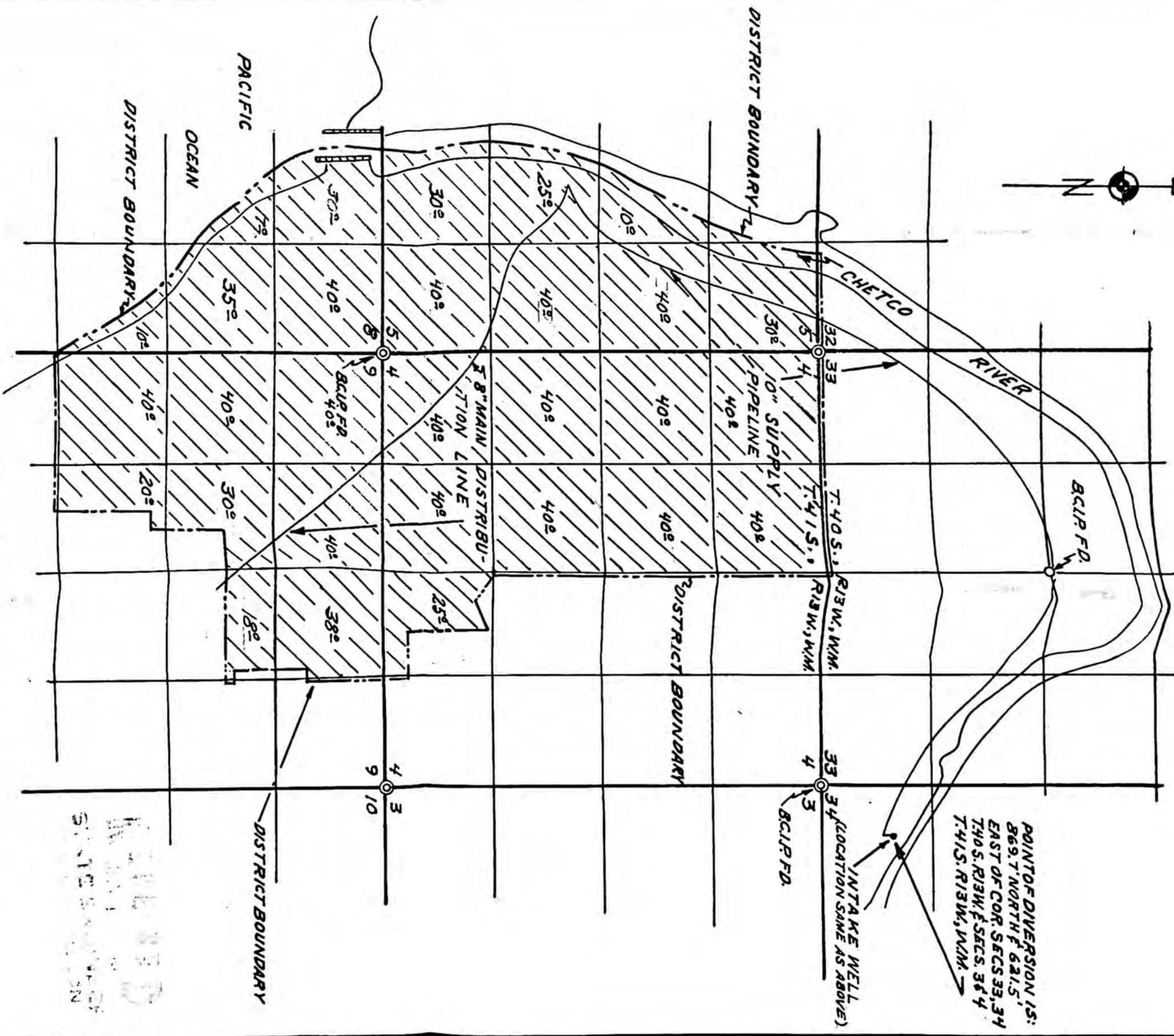
Remarks:

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of November, 1985.D. J. Thompson Chairman 98069 W. Benham Lane
(Signature of Applicant) (Address)

RECEIVED

NOV 21 1985

WATER RESOURCES DEPT.
SALEM, OREGONall
files
all



MAP TO ACCOMPANY APPLICATION TO APPROPRIATE
GROUND AND SURFACE WATERS OF THE STATE OF OREGON
FOR
HARBOR RURAL WATER DISTRICT
SITUATED IN CURRY COUNTY, OREGON
SCALE: 4" = 1 MILE
JANUARY 1966

WORTHINGTON ASSOCIATES, INC.
CONSULTING ENGINEERS
CORVALLIS, OREGON



Application No. C-3367-41825
Permit No. G-3240 31365

Mailing List for Extension FO Copies

FO Date: March 1, 2019

**Application G-3361
Permit G-3240**

Original mailed to permit holder:

Harbor Water People's Utility District
PO Box 2437
Harbor, OR 97415

Copies sent to:

1. WRD - Application File G-3361 / Permit G-3240
2. WRD - Watermaster District: 19 – Greg Wacker
3. Schwabe, Williamson & Wyatt
ATTN: Elizabeth E. Howard
1211 SW Fifth Avenue Suite 1900
Portland, OR 97204
4. WaterWatch of Oregon
ATTN: Lisa Brown
213 SW Ash St., Suite 208
Portland, OR 97204

Receiving electronic copy of PFO via e-mail (10 AM Tuesday of signature date)

5. WRD – Kerri Cope– Notify of WMCP needed
Done by _____ *Date* _____

CASEWORKER: JDP

Copies Mailed
By: <u>TM</u> (SUPPORT STAFF)
on: <u>3/1/2019</u> (DATE)

Oregon Water Resources Department Water Rights Division

In the Matter of the Application for an Extension of Time	)	FINAL ORDER
for Permit G-3240, Water Right Application G-3361, in the	)	INCORPORATING
name of Harbor Water People's Utility District	)	SETTLEMENT AGREEMENT

Permit Information

Application File G-3361 / Permit G-3240

Basin 17 – South Coast Basin / Watermaster District 19

Date of Priority: January 28, 1966

Authorized Use of Water

Source of Water:	One Well within the Chetco River Basin
Purpose or Use:	Domestic Water Supply
Maximum Rate:	3.5 Cubic Feet per Second (cfs)

Appeal Rights

This is a final order in a contested case. This order is subject to judicial review under ORS 183.482. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.482(1). 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.

Application History

The Department issued Permit G-3240 on February 23, 1968, to Harbor Rural Water District. The permit called for completion of construction by October 1, 1968, and complete application of water to beneficial use by October 1, 1969. Six previous Extensions of Time have been approved for Permit G-3240. The most recent extension authorized completion of construction and complete application of water to beneficial use by October 1, 2000. On May 14, 2003, Harbor Water People's Utility District submitted an application to the Department for an Extension of Time for Permit G-3240. In accordance with OAR 690-315-0050(2), on October 6, 2004, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2008. The protest period closed December 10, 2004, in accordance with OAR 690-315-0060(1). A timely protest was filed by WaterWatch of Oregon.

On November 19, 2018, Harbor Water People's Utility District, WaterWatch of Oregon and the Department executed a Settlement Agreement thereby resolving WaterWatch's protest. The Settlement Agreement set forth certain terms and conditions to be included in the Proposed Final

Order for Extension of Time for Permit S-43837 and in the Final Orders for Extension of Time for Permits G-3240, G-9438, and S-31365. The Settlement Agreement is adopted and incorporated as if set forth fully herein (see Attachment A.)

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order for Permit G-3240 dated December 10, 2004.

Additional Findings Of Fact

1. On February 17, 2005, the permit was assigned to Harbor Water People's Utility District (Harbor).
2. On July 22, 2005, the Department received additional information from Harbor to update the Application for Extension of Time for Permit G-3240 submitted on May 14, 2003. The information was to correctly identify the Maximum Instantaneous Rate of water diverted under the permit was 3.5 cfs during the summers of 2003 and 2004.

The Department has concluded, based on the factors demonstrated by the applicant, and the terms of the Settlement Agreement, that Permit G-3240 may be extended subject to the following conditions:

LIMITATIONS AND CONDITIONS

For purposes of the "Limitations and Conditions", permit shall mean the permit being referred to and any certificates, transfers, or permits arising out of the permit.

1. Future Use Condition

Any change of character of use under Permits G-3240, G-9438, S-31365 and S-43837 shall comply with existing statutes and rules and shall be limited to municipal purposes. Any change in the location of use shall comply with existing statutes and rules and shall be limited to the designated service areas for Harbor or the City of Brookings. This condition reflects an agreement that the Water Rights will not be offered for sale or be used by parties other than municipal providers, and will be limited to municipal purposes within the service area of Harbor and potentially City of Brookings in the future under a cooperative arrangement with the City of Brookings.

2. Water Management and Conservation Plan

In accordance with the Settlement Agreement, the permit holder shall submit a Water Management and Conservation Plan under OAR Chapter 690, Division 86 within 3 years of issuance of a final order approving Extensions of Time for Permits G-3240, G-9438, and S-31365. The Water Management and Conservation Plan for S-43837 shall be submitted in accordance with ORS 537.230, relating to permits issued for "municipal" use.

3. **Combined Rate Limitation**

The point of appropriation for ground water permits G-3240 and G-9438 is identical to the points of diversion for surface water permits S-31365 and S-43837, and authorization for the use of ground water under Permits G-3240 and G-9438 is intended as an alternative to the use of surface water under Permits S-31365 and S-43837, respectively. Use of ground water or surface water under these four permits, and under any transfers or certificates issued for these four permits shall be limited to the rates specified in each permit, and further limited pursuant to the conditions below, to a combined instantaneous rate of no more than 10.5 cfs.

Additionally, the total quantity of water withdrawn under this permit together with the quantity under permit S-31365 shall not exceed 3.5 cubic feet per second.

4. **Point of Diversion Limitation**

Use of the Harbor point(s) of diversion specified in the permits or any subsequently issued certificates, transfers or permit amendments shall be limited to a combined total of no more than 10.5 cfs under any water rights held by Harbor or in combination with any permits held or utilized by the City of Brookings using the Harbor point(s) of diversion.

5. **Limiting Water Use When Flows are at or Below 80 cfs at the Mouth of the Chetco River.**

When the three-day average in-stream flow in the Chetco River is less than 80 cfs at the mouth of the river, use of water under Permits G-3240, G-9438, S-31365 and S-43837 shall be limited to a combined total of 5.0 cfs and shall be further limited to use within the place of use of those permits. This limit shall also apply to any other water rights using the Harbor point(s) of diversion. For purposes of this condition, flow at the mouth shall be calculated by using the three-day average of the mean daily flows measured at USGS Gage # 14400000 plus 15% to account for inflow below the gage. If a future replacement gage is installed, WRD, WaterWatch, Harbor and ODFW shall confer regarding a suitable way to calculate flow at the mouth of the Chetco River.

6. **Conditions to Maintain the Persistence of Listed Fish Species**

A. Use of any water under Permit G-3240 is subject to the following provisions:

- a. Water diverted and/or appropriated at any one time from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, may not exceed 10.5 cfs.
- b. The use of the first 5.0 cfs of water from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438, or subsequent water rights

originating from these permits, is not and will not be subject to the fish persistence conditions described at 6.C.a below.

- c. The use any water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, beyond the first 5.0 cfs expressed in 6.A.b., above and up to the maximum allowed amount of 10.5 cfs, is subject to: 1) curtailment based on the Fish Persistence Target Flows described at 6.C.a below; and 2) limiting the combined diversion under Permits S-43837, S-31365, G-3240, or G-9438 to 5.0 cfs when the flow at or near the mouth of the Chetco River is less than or equal to 80 cfs described at 6.C.b below.

Therefore, all subsequent water right(s) originating from any of these water rights will include these Conditions to Maintain the Persistence of Listed Fish Species. The legal use of this permit which is subject to conditions to maintain the persistence of listed fish species shall be determined among all the permit/water right holders of record; all the permit/water right holders of record subject to these Conditions to Maintain the Persistence of Listed Fish must ensure that these fish persistence conditions are met.

B. Fish Persistence Target Flows

Fish persistence target flows in the Chetco River as recommended by ODFW are in Table 2, below; flows "at or near the mouth of the Chetco River near Brookings, Oregon" are to be calculated by using the three-day average of the mean daily flows measured at the USGS Gage 14400000 plus 15%.

Table 2

ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN CHETCO RIVER AT OR NEAR THE MOUTH near Brookings, Oregon	
Month	Cubic Feet per Second
January – May	595
June	350
July	213
August	129
September	101
October	246
November – December	595

a. Alternate Streamflow Measurement Point

The location of a streamflow measurement point as established in these Conditions to Maintain the Persistence of Listed Fish Species may be revised if the permit or water right holder provides evidence in writing that ODFW has determined that persistence flows may be measured at an alternate streamflow measurement point and provides an adequate description of the location of the alternate streamflow measurement point, and the Water Resources Director concurs in writing.

C. Determining Water Use Reductions – Generally

a. Curtailment based on the Fish Persistence Target Flows

The maximum amount of water that can be diverted as a result of this fish persistence condition is determined by the total amount of water beyond 5.0 cfs being diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, in proportion to the amount by which the flows shown in Table 2 are missed. The percent of missed target flows is defined as:

$$(1 - [(QADJ - 5.5) / QT]) \times 100\%,$$

where QADJ is the flow measured at USGS Gage 14400000 based on a three-day rolling average, plus 15%; QT is the target flow (from Table 2); and 5.5 cfs is the amount of water from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438, or subsequent water rights originating from these permits, subject to curtailment under these fish persistence conditions.

The percent by which the target flow is missed applied to the 5.5 cfs provides the maximum combined amount of water from these four permits that can be used as a result of this fish persistence condition, and is defined as:

$$5.5 - (5.5 \times \% \text{ missed target flows}),$$

where 5.5 cfs is the maximum amount of water from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438, or subsequent water rights originating from these permits, subject to curtailment under these fish persistence conditions.

b. Limiting the combined diversion under Permits S-43837, S-31365, G-3240, or G-9438 to 5.0 cfs when the flow at or near the mouth of the Chetco River is less than or equal to 80 cfs:

When $QADJ > 80.0$ and $QADJ - 5.5 > QT$, the amount of water being diverted and/ or appropriated from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438, or subsequent water rights originating from these permits, would not need to be reduced as a result of this fish persistence condition.

When $QADJ \leq 80.0$ cfs, diversion and/or appropriation of water from any combination, as authorized by Permits S-31365, S-43837, G-3240, or G-9438, or subsequent water rights originating from these permits, is limited to 5.0 cfs.

D. Examples

Example 1: Target flow met

If on September 15, the last three mean daily flows at the gage were 109, 106, and 104 cfs, then the three-day rolling average would be 106.3 cfs, and QADJ would be 122.2 cfs.

$$106.3 + [(15\%/100\%) \times 106.3] = 122.2$$

The target flow (QT) for September 15 is 101 cfs. In this example, $QADJ - 5.5 \geq QT$.

$$122.2 - 5.5 \geq 101$$

Thus, the target flow (QT) would be met and the water user could divert and/or appropriate up to 10.5 cfs of water from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438.

Example 2: Target flow missed; $QADJ > 80.0$

Step 1: If on September 15, the average of the last three mean daily flows was 74.3 cfs, then the adjusted flow (QADJ) would be 85.4 cfs

$$74.3 + [(15\%/100\%) \times 74.3] = 85.4$$

Step 2: The adjusted flow of 85.4 is greater than 80.0, therefore $QADJ > 80.0$. Thus, the diversion and/or appropriation of water from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438 is not limited to 5.0 cfs, however, the use of water up to an additional 5.5 cfs is subject to curtailment under these fish persistence conditions as illustrated in Step 3, below.

Step 3: Since the adjusted flow (QADJ) is 85.4 cfs and the target flow (QT) is 101 cfs, then the target flow would be missed by 20.9%.

$$(1 - [(85.4 - 5.5) / 101]) \times 100\% = 20.9\%$$

Step 4: Given that 5.5 cfs is subject to curtailment, and this amount needs to be reduced by 20.9% (from Step 3), or 1.1 cfs, then 4.4 cfs is the maximum amount of the 5.5 cfs that could be diverted under any combination of the four permits.

$$(5.5 \times 20.9\%) / 100\% = 1.1$$

$$5.5 - 1.1 = 4.4$$

Step 5: The maximum amount of water that may be diverted and/or appropriated from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438 after curtailment would be 9.4 cfs (4.4 cfs from Step 4, plus the 5.0 cfs not subject to curtailment). (This maximum amount may be limited as illustrated in Step 6, below.)

$$4.4 + 5.0 = 9.4$$

Step 6: The calculated maximum amount of water that could be diverted due to the fish persistence condition may not exceed the amount of water to which the City is legally entitled to divert. For example, if the water user is only accessing water under the surface water rights, and the amount of water legally authorized¹ for diversion is 2.5 cfs under Permit S-31365 and 2.0 cfs under Permit S-43837 then 4.5 cfs would be the maximum amount of diversion allowed under these permits, rather than 9.4 cfs from Step 5.

(Conversely, if the amount of water legally authorized for diversion under both permits is 10.5 cfs, then 9.4 cfs (from Step 5) would be the maximum amount of diversion allowed under these two permits – again assuming for the purpose of this example that the water user is only accessing surface water rights).

Example 3: Flows are less than or equal to 80.0 cfs ($QADJ \leq 80.0$)

Step 1: If on September 15, the average of the last three mean daily flows was 61.9 cfs, then the adjusted flow (QADJ) would be 71.2 cfs

$$61.9 + [(15\%/100\%) \times 61.9] = 71.2$$

Step 2: The adjusted flow of $71.2 \leq 80.0$, therefore $QADJ \leq 80.0$.

Because the $QADJ \leq 80.0$, the water user could not divert and/or appropriate more than 5.0 cfs of water from any combination as authorized by Permits S-31365, S-43837, G-3240, or G-9438.

¹ For example, authorization provided through a WMCP or partial perfection

Conclusion of Law

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0080(3).

Order

The Extension of Time for Application G-3361, Permit G-3240, therefore, is approved subject to conditions contained herein. The deadline for completing construction is extended to October 1, 2050. The deadline for applying water to full beneficial use is extended to October 1, 2050.

DATED: March 1, 2019



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

If you have any questions about statements contained in this document, please contact Jeffrey Pierceall at (503) 986-0802.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900.

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In The Matter of Applications for Extension of	)	SETTLEMENT
Time for Permit S-43837 (Application S-58045),	)	AGREEMENT
Permit S-31365 (Application S-41825), Permit G-	)	(Attachment A)
3240 (Application G-3361) and Permit G-9438	)	
(Application G-9502) in the name of Harbor	)	
Water People's Utility District in Curry County,	)	
Oregon	)	
Applicant, and	)	
	)	
WaterWatch of Oregon, Inc.	)	
Protestant	)	

The Oregon Water Resources Department (OWRD), Harbor Water People's Utility District (District or Harbor) and WaterWatch of Oregon, Inc. (WaterWatch), (collectively "the Parties") do hereby stipulate and agree in this "Settlement Agreement" (Agreement) as follows:

A. Background

1. The District has four permits: G-3240 (3.5 cfs; Group Domestic; priority date 1/28/1966), S-31365 (3.5 cfs; Quasi-Municipal; priority date 1/28/1966), G-9438 (7.0 cfs; Quasi-Municipal, priority date 1/3/1980), and S-43837 (7.0 cfs; Municipal; priority date 10/26/1978). The District currently utilizes one point of diversion/point of appropriation on the Chetco River (located 800 ft north and 1000 ft east of the southwest corner of Section 34, T40S, R13W, WM.)
2. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit G-3240. On October 26, 2004, OWRD issued a Proposed Final Order approving an extension of time from October 1, 2000 to October 1, 2008. WaterWatch filed a protest on December 10, 2004.
3. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit G-31365. On November 13, 2007, OWRD issued a Proposed Final Order approving an extension of time from October 1, 2000 to October 1, 2008. WaterWatch filed a protest on December 28, 2007.
4. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit G-9438. On November 13, 2007, OWRD issued a Proposed Final Order approving an extension of time from October 1, 1999 to October 1, 2020. WaterWatch filed a protest on December 28, 2007.
5. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit S-43837 from October 1, 2000 to October 1, 2050. OWRD has not yet issued a Proposed Final Order.

6. The Parties enter into this settlement agreement to resolve the protests to the proposed final orders on three permits and to agree on conditions for approval of an extension of time for Permit S-43837.

B. Consent

1. The Parties understand and agree that this Agreement, including the draft Final Orders Incorporating Settlement Agreement for Permits G-3240, G-9438 and S-31365 and the draft Proposed Final Order for Permit S-43837, sets forth the entire Agreement of the Parties and constitutes the complete and final resolution of the WaterWatch protests.

2. The District and WaterWatch hereby waive their respective rights to petition for reconsideration and for judicial review of this Agreement and the Final Orders Incorporating Settlement Agreement for Permits G-3240, G-9438 and S-31365 and the subsequent Final Order Incorporating Settlement Agreement for Permit S-43837, provided each of the Final Orders is issued consistent with this Agreement.

3. Each Party, and each individual signing this agreement on behalf of a Party, hereby represents, warrants, and agrees that the person who executes this Agreement on the Party's behalf has the full right and authority to bind that Party to the terms of this Agreement.

4. Each Party hereby certifies that it has had a reasonable opportunity to review and request changes to this Agreement, and that it has signed this Agreement of its own free will and accord.

C. Terms of Agreement

1. Within 30 days following full execution of this Settlement Agreement, OWRD shall issue a Proposed Final Order for extension of Permit S-43837 in accordance with the terms and conditions of the Settlement Agreement and the draft Proposed Final Order attached hereto. The parties agree not to file protests on any such proposed order. If protests are filed by any persons not party to this agreement, the Parties will work cooperatively to attempt to resolve the protests in accordance with this agreement.

2. Within 30 days following the close of the protest period for the Proposed Final Order on S-43837, if no protests are filed, OWRD shall issue Final Orders extending Permits G-3240, S-31365, G-9438 and S-43837 in accordance with the terms and conditions of the Settlement Agreement and the draft proposed final order on Permit S-43837 and draft final orders on Permits G-3240, S-31365 and G-9438 attached hereto.

3. Notwithstanding any other term of this Settlement Agreement, any Party may petition OWRD to correct any scrivener's error in the Final Orders Incorporating Settlement Agreement.

4. This Settlement Agreement is made upon the express understanding that it constitutes a negotiated resolution. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.

5. For purposes of this Settlement Agreement and the Final Orders Incorporating Settlement Agreement, "permit" shall mean the permit being referred to and any certificates, transfers, or

permits arising out of the permit; "Water Rights" shall mean the four permits and any certificates or permits arising out of them; "Harbor" or "permit holder" shall mean Harbor Water PUD or any future assignee or holder of Permits G-3240, S-31365, G-9438 and S-43837 or any certificates or permits arising out of those permits.

6. Extensions of Permits G-3240, G-9438, and S-31365, and any proposed extension of Permit S-43837 shall include the following conditions which were agreed to pursuant to this Settlement Agreement. In addition to being agreed to in this Settlement Agreement, Condition (C), the portion of Condition (E) that limits diversion to 5 cfs when flows at the mouth of the Chetco River are at or below 80 cfs, and Condition (F) are also conditions recommended in the ODFW Advice for Permit S-43837.

A. Future Use Condition:

Any change of character of use under Permits G-3240, G-9438, S-31365 and S-43837 shall comply with existing statutes and rules and shall be limited to municipal purposes. Any change in the location of use shall comply with existing statutes and rules and shall be limited to the designated service areas for Harbor or the City of Brookings. This condition reflects an agreement that the Water Rights will not be offered for sale or be used by parties other than municipal providers, and will be limited to municipal purposes within the service area of Harbor and potentially City of Brookings in the future under a cooperative arrangement with the City of Brookings.

B. Water Management and Conservation Plan

Permit holder shall submit a Water Management and Conservation Plan under OAR Chapter 690, Division 86 within 3 years of issuance of a final order approving extensions of Permits G-3240, G-9438, and S-31365. The Water Management and Conservation Plan for S-43837 shall be submitted in accordance with ORS 537.230, relating to permits issued for "municipal" use.

C. Combined Rate Limitation

The point of appropriation for ground water permits G-3240 and G-9438 is identical to the points of diversion for surface water permits S-31365 and S-43837, and authorization for the use of ground water under Permits G-3240 and G-9438 is intended as an alternative to the use of surface water under Permits S-31365 and S-43837, respectively. Use of ground water or surface water under the four permits included in this Settlement Agreement, and under any certificates issued for the four permits shall be limited to the rates specified in each permit, and further limited pursuant to the conditions below, to a combined instantaneous rate of no more than 10.5 cfs.

The extension orders for the following permits shall add the following condition to the respective permit:

Extension order for Permit G-9438:

"The total quantity of water withdrawn under this permit together with the quantity under permit S-43837 shall not exceed 7.0 cubic feet per second."

Extension order for Permit S-43837:

"The total quantity of water withdrawn under this permit together with the quantity under permit G-9438 shall not exceed 7.0 cubic feet per second."

Extension order for Permit S-31365:

"The total quantity of water withdrawn under this permit together with the quantity under permit G-9438 shall not exceed 3.5 cubic feet per second."

D. Point of Diversion Limitation

Use of the Harbor point(s) of diversion specified in the permits or any subsequently issued certificates, transfers or permit amendments shall be limited to a combined total of no more than 10.5 cfs under any water rights held by Harbor or in combination with any permits held or utilized by the City of Brookings using the Harbor point(s) of diversion.

E. Limiting Water Use When Flows are at or below 80 cfs at the Mouth of the Chetco River.

When the three-day average in-stream flow in the Chetco River is less than 80 cfs at the mouth of the river, use of water under Permits G-3240, G-9438, S-31365 and S-43837 shall be limited to a combined total of 5.0 cfs and shall be further limited to use within the place of use of those permits. This limit shall also apply to any other water rights using the Harbor point(s) of diversion. For purposes of this condition, flow at the mouth shall be calculated by using the three-day average of the mean daily flows measured at USGS Gage # 14400000 plus 15% to account for inflow below the gage. If a future replacement gage is installed, WRD, WaterWatch, Harbor and ODFW shall confer regarding a suitable way to calculate flow at the mouth of the Chetco River.

F. Proportional Reduction

The following conditions to maintain the persistence of listed fish species will be included in the extension orders for all permits.

1. Conditions to Maintain the Persistence of Listed Fish Species

A. Use of any water under Permit S-43837 and any subsequent water right(s) originating from this permit are subject to the following provisions:

- a. Water diverted and/or appropriated at any one time from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, may not exceed 10.5 cfs.
- b. The use of the first 5.0 cfs of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, is not and will not be subject to the fish persistence conditions described at 1.C.a below.
- c. The use any water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights

originating from these permits, beyond the first 5.0 cfs expressed in 1.A.b., above and up to the maximum allowed amount of 10.5 cfs, is subject to: 1) curtailment based on the Fish Persistence Target Flows described at 1.C.a below; and 2) limiting the combined diversion under Permits S-43837, S-31365, G-3240, or G-9438 to 5.0 cfs when the flow at or near the mouth of the Chetco River is less than or equal to 80 cfs described at 1.C.b below.

Therefore, all subsequent water right(s) originating from any of these water rights will include these Conditions to Maintain the Persistence of Listed Fish Species. The legal use of this permit which is subject to conditions to maintain the persistence of listed fish species shall be determined among all the permit/water right holders of record; all the permit/water right holders of record subject to these Conditions to Maintain the Persistence of Listed Fish must ensure that these fish persistence conditions are met.

B. Fish Persistence Target Flows

Fish persistence target flows in the Chetco River as recommended by ODFW are in Table 2, below; flows "at or near the mouth of the Chetco River near Brookings, Oregon" are to be calculated by using the three-day average of the mean daily flows measured at the USGS Gage 14400000 plus 15%.

Table 2

ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN CHETCO RIVER AT OR NEAR THE MOUTH near Brookings, Oregon	
Month	Cubic Feet per Second
January – May	595
June	350
July	213
August	129
September	101
October	246
November – December	595

a. Alternate Streamflow Measurement Point

The location of a streamflow measurement point as established in these Conditions to Maintain the Persistence of Listed Fish Species may be revised if the permit or water right holder provides evidence in writing that ODFW has determined that persistence flows may be measured at an alternate streamflow measurement point and provides an adequate description of the location of the alternate streamflow measurement point, and the Water Resources Director concurs in writing.

C. Determining Water Use Reductions – Generally

a) Curtailment based on the Fish Persistence Target Flows

The maximum amount of water that can be diverted as a result of this fish persistence condition is determined by the total amount of water beyond 5.0 cfs being diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, in proportion to the amount by which the flows shown in Table 2 are missed. The percent of missed target flows is defined as:

$$(1 - [(QADJ - 5.5) / QT]) \times 100\%,$$

where QADJ is the flow measured at USGS Gage 14400000 based on a three-day rolling average, plus 15%; QT is the target flow (from Table 2); and 5.5 cfs is the amount of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, subject to curtailment under these fish persistence conditions.

The percent by which the target flow is missed applied to the 5.5 cfs provides the maximum combined amount of water from these four permits that can be used as a result of this fish persistence condition, and is defined as:

$$5.5 - (5.5 \times \% \text{ missed target flows}),$$

where 5.5 cfs is the maximum amount of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, subject to curtailment under these fish persistence conditions.

b) Limiting the combined diversion under Permits S-43837, S-31365, G-3240, or G-9438 to 5.0 cfs when the flow at or near the mouth of the Chetco River is less than or equal to 80 cfs

When $QADJ > 80.0$ and $QADJ - 5.5 > QT$, the amount of water being diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, would not need to be reduced as a result of this fish persistence condition.

When $QADJ \leq 80.0$ cfs, diversion and/or appropriation of water from any combination, as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, is limited to 5.0 cfs.

D. Examples

Example 1: Target flow met

If on September 15, the last three mean daily flows at the gage were 109, 106, and 104 cfs, then the three-day rolling average would be 106.3 cfs, and QADJ would be 122.2 cfs.

$$106.3 + [(15\%/100\%) \times 106.3] = 122.2$$

The target flow (QT) for September 15 is 101 cfs. In this example, $QADJ - 5.5 \geq QT$.

$$122.2 - 5.5 \geq 101$$

Thus, the target flow (QT) would be met and the water user could divert and/or appropriate up to 10.5 cfs of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438.

Example 2: Target flow missed; QADJ > 80.0

Step 1: If on September 15, the average of the last three mean daily flows was 74.3 cfs, then the adjusted flow (QADJ) would be 85.4 cfs

$$74.3 + [(15\%/100\%) \times 74.3] = 85.4$$

Step 2: The adjusted flow of 85.4 is greater than 80.0, therefore $QADJ > 80.0$. Thus, the diversion and/or appropriation of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438 is not limited to 5.0 cfs, however, the use of water up to an additional 5.5 cfs is subject to curtailment under these fish persistence conditions as illustrated in Step 3, below.

Step 3: Since the adjusted flow (QADJ) is 85.4 cfs and the target flow (QT) is 101 cfs, then the target flow would be missed by 20.9%.

$$(1 - [(85.4 - 5.5) / 101]) \times 100\% = 20.9\%$$

Step 4: Given that 5.5 cfs is subject to curtailment, and this amount needs to be reduced by 20.9% (from Step 3), or 1.1 cfs, then 4.4 cfs is the maximum amount of the 5.5 cfs that could be diverted under any combination of the four permits.

$$(5.5 \times 20.9\%) / 100\% = 1.1$$

$$5.5 - 1.1 = 4.4$$

Step 5: The maximum amount of water that may be diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438 after curtailment would be 9.4 cfs (4.4 cfs from Step 4,

plus the 5.0 cfs not subject to curtailment). (This maximum amount may be limited as illustrated in Step 6, below.)

$$4.4 + 5.0 = 9.4$$

Step 6: The calculated maximum amount of water that could be diverted due to the fish persistence condition may not exceed the amount of water to which the City is legally entitled to divert. For example, if the water user is only accessing water under the surface water rights, and the amount of water legally authorized¹ for diversion is 2.5 cfs under Permit S-31365 and 2.0 cfs under Permit S-43837 then 4.5 cfs would be the maximum amount of diversion allowed under these permits, rather than 9.4 cfs from Step 5.

(Conversely, if the amount of water legally authorized for diversion under both permits is 10.5 cfs, then 9.4 cfs (from Step 5) would be the maximum amount of diversion allowed under these two permits – again assuming for the purpose of this example that the water user is only accessing surface water rights).

Example 3: Flows are less than or equal to 80.0 cfs (QADJ ≤ 80.0)

Step 1: If on September 15, the average of the last three mean daily flows was 61.9 cfs, then the adjusted flow (QADJ) would be 71.2 cfs

$$61.9 + [(15\%/100\%) \times 61.9] = 71.2$$

Step 2: The adjusted flow of $71.2 \leq 80.0$, therefore $QADJ \leq 80.0$.

Because the $QADJ \leq 80.0$, the water user could not divert and/or appropriate more than 5.0 cfs of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438.

7. This Settlement Agreement may be signed in counterparts.


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

11-19-2018
Date

¹ For example, authorization provided through a WMCP or partial perfection.

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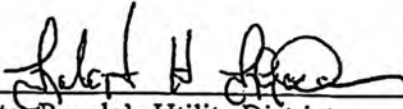
OWRD

Harbor Water People's Utility District

Date

72 Executive Director
WaterWatch of Oregon, Inc.

8/24/18
Date



Harbor Water People's Utility District
Robert H. Rhodes,
Secretary

WaterWatch of Oregon, Inc.

8.9.18
Date

Date

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In The Matter of Applications for Extension of	)	SETTLEMENT
Time for Permit S-43837 (Application S-58045),	)	AGREEMENT
Permit S-31365 (Application S-41825), Permit G-	)	(Attachment A)
3240 (Application G-3361) and Permit G-9438	)	
(Application G-9502) in the name of Harbor	)	
Water People's Utility District in Curry County,	)	
Oregon	)	
<i>Applicant, and</i>	)	
	)	
WaterWatch of Oregon, Inc.	)	
<i>Protestant</i>	)	

The Oregon Water Resources Department (OWRD), Harbor Water People's Utility District (District or Harbor) and WaterWatch of Oregon, Inc. (WaterWatch), (collectively "the Parties") do hereby stipulate and agree in this "Settlement Agreement" (Agreement) as follows:

A. Background

1. The District has four permits: G-3240 (3.5 cfs; Group Domestic; priority date 1/28/1966), S-31365 (3.5 cfs; Quasi-Municipal; priority date 1/28/1966), G-9438 (7.0 cfs; Quasi-Municipal, priority date 1/3/1980), and S-43837 (7.0 cfs; Municipal; priority date 10/26/1978). The District currently utilizes one point of diversion/point of appropriation on the Chetco River (located 800 ft north and 1000 ft east of the southwest corner of Section 34, T40S, R13W, WM.)
2. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit G-3240. On October 26, 2004, OWRD issued a Proposed Final Order approving an extension of time from October 1, 2000 to October 1, 2008. WaterWatch filed a protest on December 10, 2004.
3. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit G-31365. On November 13, 2007, OWRD issued a Proposed Final Order approving an extension of time from October 1, 2000 to October 1, 2008. WaterWatch filed a protest on December 28, 2007.
4. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit G-9438. On November 13, 2007, OWRD issued a Proposed Final Order approving an extension of time from October 1, 1999 to October 1, 2020. WaterWatch filed a protest on December 28, 2007.
5. On May 14, 2003, OWRD received an application from the District for an extension of time for Permit S-43837 from October 1, 2000 to October 1, 2050. OWRD has not yet issued a Proposed Final Order.

6. The Parties enter into this settlement agreement to resolve the protests to the proposed final orders on three permits and to agree on conditions for approval of an extension of time for Permit S-43837.

B. Consent

1. The Parties understand and agree that this Agreement, including the draft Final Orders Incorporating Settlement Agreement for Permits G-3240, G-9438 and S-31365 and the draft Proposed Final Order for Permit S-43837, sets forth the entire Agreement of the Parties and constitutes the complete and final resolution of the WaterWatch protests.

2. The District and WaterWatch hereby waive their respective rights to petition for reconsideration and for judicial review of this Agreement and the Final Orders Incorporating Settlement Agreement for Permits G-3240, G-9438 and S-31365 and the subsequent Final Order Incorporating Settlement Agreement for Permit S-43837, provided each of the Final Orders is issued consistent with this Agreement.

3. Each Party, and each individual signing this agreement on behalf of a Party, hereby represents, warrants, and agrees that the person who executes this Agreement on the Party's behalf has the full right and authority to bind that Party to the terms of this Agreement.

4. Each Party hereby certifies that it has had a reasonable opportunity to review and request changes to this Agreement, and that it has signed this Agreement of its own free will and accord.

C. Terms of Agreement

1. Within 30 days following full execution of this Settlement Agreement, OWRD shall issue a Proposed Final Order for extension of Permit S-43837 in accordance with the terms and conditions of the Settlement Agreement and the draft Proposed Final Order attached hereto. The parties agree not to file protests on any such proposed order. If protests are filed by any persons not party to this agreement, the Parties will work cooperatively to attempt to resolve the protests in accordance with this agreement.

2. Within 30 days following the close of the protest period for the Proposed Final Order on S-43837, if no protests are filed, OWRD shall issue Final Orders extending Permits G-3240, S-31365, G-9438 and S-43837 in accordance with the terms and conditions of the Settlement Agreement and the draft proposed final order on Permit S-43837 and draft final orders on Permits G-3240, S-31365 and G-9438 attached hereto.

3. Notwithstanding any other term of this Settlement Agreement, any Party may petition OWRD to correct any scrivener's error in the Final Orders Incorporating Settlement Agreement.

4. This Settlement Agreement is made upon the express understanding that it constitutes a negotiated resolution. The Parties agree that nothing in this Settlement Agreement establishes factual, legal, or policy precedent.

5. For purposes of this Settlement Agreement and the Final Orders Incorporating Settlement Agreement, "permit" shall mean the permit being referred to and any certificates, transfers, or

permits arising out of the permit; "Water Rights" shall mean the four permits and any certificates or permits arising out of them; "Harbor" or "permit holder" shall mean Harbor Water PUD or any future assignee or holder of Permits G-3240, S-31365, G-9438 and S-43837 or any certificates or permits arising out of those permits.

6. Extensions of Permits G-3240, G-9438, and S-31365, and any proposed extension of Permit S-43837 shall include the following conditions which were agreed to pursuant to this Settlement Agreement. In addition to being agreed to in this Settlement Agreement, Condition (C), the portion of Condition (E) that limits diversion to 5 cfs when flows at the mouth of the Chetco River are at or below 80 cfs, and Condition (F) are also conditions recommended in the ODFW Advice for Permit S-43837.

A. Future Use Condition:

Any change of character of use under Permits G-3240, G-9438, S-31365 and S-43837 shall comply with existing statutes and rules and shall be limited to municipal purposes. Any change in the location of use shall comply with existing statutes and rules and shall be limited to the designated service areas for Harbor or the City of Brookings. This condition reflects an agreement that the Water Rights will not be offered for sale or be used by parties other than municipal providers, and will be limited to municipal purposes within the service area of Harbor and potentially City of Brookings in the future under a cooperative arrangement with the City of Brookings.

B. Water Management and Conservation Plan

Permit holder shall submit a Water Management and Conservation Plan under OAR Chapter 690, Division 86 within 3 years of issuance of a final order approving extensions of Permits G-3240, G-9438, and S-31365. The Water Management and Conservation Plan for S-43837 shall be submitted in accordance with ORS 537.230, relating to permits issued for "municipal" use.

C. Combined Rate Limitation

The point of appropriation for ground water permits G-3240 and G-9438 is identical to the points of diversion for surface water permits S-31365 and S-43837, and authorization for the use of ground water under Permits G-3240 and G-9438 is intended as an alternative to the use of surface water under Permits S-31365 and S-43837, respectively. Use of ground water or surface water under the four permits included in this Settlement Agreement, and under any certificates issued for the four permits shall be limited to the rates specified in each permit, and further limited pursuant to the conditions below, to a combined instantaneous rate of no more than 10.5 cfs.

The extension orders for the following permits shall add the following condition to the respective permit:

Extension order for Permit G-9438:

"The total quantity of water withdrawn under this permit together with the quantity under permit S-43837 shall not exceed 7.0 cubic feet per second."

Extension order for Permit S-43837:

"The total quantity of water withdrawn under this permit together with the quantity under permit G-9438 shall not exceed 7.0 cubic feet per second."

Extension order for Permit S-31365:

"The total quantity of water withdrawn under this permit together with the quantity under permit G-9438 shall not exceed 3.5 cubic feet per second."

D. *Point of Diversion Limitation*

Use of the Harbor point(s) of diversion specified in the permits or any subsequently issued certificates, transfers or permit amendments shall be limited to a combined total of no more than 10.5 cfs under any water rights held by Harbor or in combination with any permits held or utilized by the City of Brookings using the Harbor point(s) of diversion.

E. *Limiting Water Use When Flows are at or below 80 cfs at the Mouth of the Chetco River.*

When the three-day average in-stream flow in the Chetco River is less than 80 cfs at the mouth of the river, use of water under Permits G-3240, G-9438, S-31365 and S-43837 shall be limited to a combined total of 5.0 cfs and shall be further limited to use within the place of use of those permits. This limit shall also apply to any other water rights using the Harbor point(s) of diversion. For purposes of this condition, flow at the mouth shall be calculated by using the three-day average of the mean daily flows measured at USGS Gage # 14400000 plus 15% to account for inflow below the gage. If a future replacement gage is installed, WRD, WaterWatch, Harbor and ODFW shall confer regarding a suitable way to calculate flow at the mouth of the Chetco River.

F. *Proportional Reduction*

The following conditions to maintain the persistence of listed fish species will be included in the extension orders for all permits.

1. Conditions to Maintain the Persistence of Listed Fish Species

A. Use of any water under Permit S-43837 and any subsequent water right(s) originating from this permit are subject to the following provisions:

- a. Water diverted and/or appropriated at any one time from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, may not exceed 10.5 cfs.
- b. The use of the first 5.0 cfs of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, is not and will not be subject to the fish persistence conditions described at 1.C.a below.
- c. The use any water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights

originating from these permits, beyond the first 5.0 cfs expressed in 1.A.b., above and up to the maximum allowed amount of 10.5 cfs, is subject to: 1) curtailment based on the Fish Persistence Target Flows described at 1.C.a below; and 2) limiting the combined diversion under Permits S-43837, S-31365, G-3240, or G-9438 to 5.0 cfs when the flow at or near the mouth of the Chetco River is less than or equal to 80 cfs described at 1.C.b below.

Therefore, all subsequent water right(s) originating from any of these water rights will include these Conditions to Maintain the Persistence of Listed Fish Species. The legal use of this permit which is subject to conditions to maintain the persistence of listed fish species shall be determined among all the permit/water right holders of record; all the permit/water right holders of record subject to these Conditions to Maintain the Persistence of Listed Fish must ensure that these fish persistence conditions are met.

B. Fish Persistence Target Flows

Fish persistence target flows in the Chetco River as recommended by ODFW are in Table 2, below; flows "at or near the mouth of the Chetco River near Brookings, Oregon" are to be calculated by using the three-day average of the mean daily flows measured at the USGS Gage 14400000 plus 15%.

Table 2

ODFW'S RECOMMENDED FISH PERSISTENCE TARGET FLOWS IN CHETCO RIVER AT OR NEAR THE MOUTH near Brookings, Oregon	
Month	Cubic Feet per Second
January - May	595
June	350
July	213
August	129
September	101
October	246
November - December	595

a. Alternate Streamflow Measurement Point

The location of a streamflow measurement point as established in these Conditions to Maintain the Persistence of Listed Fish Species may be revised if the permit or water right holder provides evidence in writing that ODFW has determined that persistence flows may be measured at an alternate streamflow measurement point and provides an adequate description of the location of the alternate streamflow measurement point, and the Water Resources Director concurs in writing.

C. Determining Water Use Reductions – Generally

a) Curtailment based on the Fish Persistence Target Flows

The maximum amount of water that can be diverted as a result of this fish persistence condition is determined by the total amount of water beyond 5.0 cfs being diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, in proportion to the amount by which the flows shown in Table 2 are missed. The percent of missed target flows is defined as:

$$(1 - [(QADJ - 5.5) / QT]) \times 100\%,$$

where QADJ is the flow measured at USGS Gage 14400000 based on a three-day rolling average, plus 15%; QT is the target flow (from Table 2); and 5.5 cfs is the amount of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, subject to curtailment under these fish persistence conditions.

The percent by which the target flow is missed applied to the 5.5 cfs provides the maximum combined amount of water from these four permits that can be used as a result of this fish persistence condition, and is defined as:

$$5.5 - (5.5 \times \% \text{ missed target flows}),$$

where 5.5 cfs is the maximum amount of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, subject to curtailment under these fish persistence conditions.

b) Limiting the combined diversion under Permits S-43837, S-31365, G-3240, or G-9438 to 5.0 cfs when the flow at or near the mouth of the Chetco River is less than or equal to 80 cfs

When $QADJ > 80.0$ and $QADJ - 5.5 > QT$, the amount of water being diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, would not need to be reduced as a result of this fish persistence condition.

When $QADJ \leq 80.0$ cfs, diversion and/or appropriation of water from any combination, as authorized by Permits S-43837, S-31365, G-3240, or G-9438, or subsequent water rights originating from these permits, is limited to 5.0 cfs.

D. Examples

Example 1: Target flow met

If on September 15, the last three mean daily flows at the gage were 109, 106, and 104 cfs, then the three-day rolling average would be 106.3 cfs, and QADJ would be 122.2 cfs.

$$106.3 + [(15\%/100\%) \times 106.3] = 122.2$$

The target flow (QT) for September 15 is 101 cfs. In this example, $QADJ = 5.5 > QT$.

$$122.2 - 5.5 = 101$$

Thus, the target flow (QT) would be met and the water user could divert and/or appropriate up to 10.5 cfs of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438.

Example 2: Target flow missed, $QADJ > 80.0$

Step 1: If on September 15, the average of the last three mean daily flows was 74.3 cfs, then the adjusted flow (QADJ) would be 85.4 cfs.

$$74.3 + [(15\%/100\%) \times 74.3] = 85.4$$

Step 2: The adjusted flow of 85.4 is greater than 80.0, therefore $QADJ > 80.0$. Thus, the diversion and/or appropriation of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438 is not limited to 5.0 cfs, however, the use of water up to an additional 5.5 cfs is subject to curtailment under these fish persistence conditions as illustrated in Step 3, below.

Step 3: Since the adjusted flow (QADJ) is 85.4 cfs and the target flow (QT) is 101 cfs, then the target flow would be missed by 20.9%.

$$(1 - [(85.4 - 5.5) / 101]) \times 100\% = 20.9\%$$

Step 4: Given that 5.5 cfs is subject to curtailment, and this amount needs to be reduced by 20.9% (from Step 3), or 1.1 cfs, then 4.4 cfs is the maximum amount of the 5.5 cfs that could be diverted under any combination of the four permits.

$$(5.5 \times 20.9\%) / 100\% = 1.1$$

$$5.5 - 1.1 = 4.4$$

Step 5: The maximum amount of water that may be diverted and/or appropriated from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438 after curtailment would be 9.4 cfs (4.4 cfs from Step 4,

plus the 5.0 cfs not subject to curtailment). (This maximum amount may be limited as illustrated in Step 6, below.)

$$4.4 + 5.0 = 9.4$$

Step 6: The calculated maximum amount of water that could be diverted due to the fish persistence condition may not exceed the amount of water to which the City is legally entitled to divert. For example, if the water user is only accessing water under the surface water rights, and the amount of water legally authorized¹ for diversion is 2.5 cfs under Permit S-31365 and 2.0 cfs under Permit S-43837 then 4.5 cfs would be the maximum amount of diversion allowed under these permits, rather than 9.4 cfs from Step 5.

(Conversely, if the amount of water legally authorized for diversion under both permits is 10.5 cfs, then 9.4 cfs (from Step 5) would be the maximum amount of diversion allowed under these two permits – again assuming for the purpose of this example that the water user is only accessing surface water rights).

Example 3: Flows are less than or equal to 80.0 cfs (QADJ ≤ 80.0)

Step 1: If on September 15, the average of the last three mean daily flows was 61.9 cfs, then the adjusted flow (QADJ) would be 71.2 cfs

$$61.9 + [(15\%/100\%) \times 61.9] = 71.2$$

Step 2: The adjusted flow of $71.2 \leq 80.0$, therefore $QADJ \leq 80.0$.

Because the $QADJ \leq 80.0$, the water user could not divert and/or appropriate more than 5.0 cfs of water from any combination as authorized by Permits S-43837, S-31365, G-3240, or G-9438.

7. This Settlement Agreement may be signed in counterparts.


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

11-19-2018
Date

¹ For example, authorization provided through a WMCP or partial perfection.

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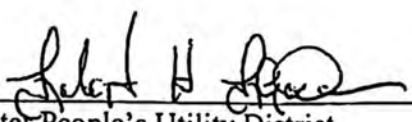
Harbor Water People's Utility District

Date

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WaterWatch of Oregon, Inc.

Executive Director

8/24/18
Date



Harbor Water People's Utility District
Robert H. Rhodes,
Secretary

WaterWatch of Oregon, Inc.

8.9.18
Date

Date

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JAN 28 1966
STATE ENGINEER
PORTLAND, OREGON

Permit No. G-3240

APPLICATION FOR A PERMIT

To Appropriate the Ground Waters of the State of Oregon

I, Harbor Rural Water District
(Name of applicant)
of P. O. Box 289, Harbor, Oregon, county of Curry
(Postoffice Address)

state of Oregon, do hereby make application for a permit to appropriate the following described ground waters of the state of Oregon, SUBJECT TO EXISTING RIGHTS:

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

December 1964, Curry County, Oregon

1. Give name of nearest stream to which the well, tunnel or other source of water development is situated Chetco River
(Name of stream)

2. The amount of water which the applicant intends to apply to beneficial use is 3.5 cubic feet per second or 1,580 gallons per minute. tributary of

3. The use to which the water is to be applied is Domestic Water Supply

4. The well or other source is located 869.7 ft. N. and 621.5 ft. E. from the S.W. corner of Sec. 34, T. 40 S., R. 13 W., M. (N. or S.) (see remarks)
(Section or subdivision)

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

(If there is more than one well, each must be described. Use separate sheet if necessary)
being within the S.W. 1/4 of the S.W. 1/4 of Sec. 34, Twp. 40 S., R. 13 W., W. M., in the county of Curry County

5. The Pipe Line to be 2.3 miles
(Canal or pipe line)
in length, terminating in the NW 1/4 of the S.E. 1/4 of Sec. 5, Twp. 41 S., R. 13 W., W. M., the proposed location being shown throughout on the accompanying map.
(Smallest legal subdivision)

6. The name of the well or other works is Chetco River Intake

DESCRIPTION OF WORKS

7. If the flow to be utilized is artesian, the works to be used for the control and conservation of the supply when not in use must be described.

8. The development will consist of 2 each Verticle Wells (bottom portions/ having a Perforated
(Give number of wells, tunnels, etc.)

diameter of 16 inches and an estimated depth of 40 feet. It is estimated that 40

feet of the well will require Steel casing. Depth to water table is estimated 4
(Kind) (Feet)

at normal water conditions.

G 3240

RECEIVED
JAN 28 1966
STATE ENGINEER
SALEM OREGON

Township N. or S.	Range E. or W. of W.M.	Section	Porty Acre Tract	Number of Acres To Be Irrigated
T41S	R13W	4	N.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$ N.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$	None " " " " " " " "
T41S	R13W	5	S.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.E. $\frac{1}{4}$ S.E. $\frac{1}{4}$ S.E. $\frac{1}{4}$	" " " " " " "
T41S	R13W	8	N.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.E. $\frac{1}{4}$	" " " " "
T41S	R13W	9	N.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.E. $\frac{1}{4}$ N.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$ S.W. $\frac{1}{4}$ N.E. $\frac{1}{4}$	" " " " " " " "

MUNICIPAL SUPPLY—

G 3240

13. To supply the city of Harbor Rural Water District
in Curry county, having a present population of 1700
and an estimated population of 4,000 in 1985.

ANSWER QUESTIONS 14, 15, 16, 17 AND 18 IN ALL CASES

14. Estimated cost of proposed works, \$ 400,000
15. Construction work will begin on or before June 1966
16. Construction work will be completed on or before January 1967
17. The water will be completely applied to the proposed use on or before January 1967
18. If the ground water supply is supplemental to an existing water supply, identify any application for permit, permit, certificate or adjudicated right to appropriate water, made or held by the applicant.

HARBOR RURAL WATER DISTRICT

Robert W. Chalmers
(Signature of applicant)

Remarks: The intake well is located at the same point as the Chetco River Diversion ; which is - 869.7 feet North and 621.5 feet East from the S.W. Corner of Section 34, T.41S., R.13W., W.M.

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

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

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

WITNESS my hand this day of , 19

STATE ENGINEER

By ASSISTANT

G 3240

..... feet; depth of water feet; grade feet fall per one
thousand feet.

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

(c) Length of pipe, 12, 300 ft.; size at intake, 8 in.; in size at ft.
from intake in.; size at place of use 8 & 6 in.; difference in elevation between
varies

intake and place of use, 10' - 360' ft. Is grade uniform? varies Estimated capacity, 3.5 sec. ft.

Note: Additional pumping facilities will be used to maintain high level distribution system.

10. If pumps are to be used, give size and type 2 each 10" Vertical Turbine

10. If pumps are to be used, give size and type 2 each 10" Vertical Turbine

Give horsepower and type of motor or engine to be used ...2...each...50...HP...18^oRPM...240 Volt....
60 cycle...3 phase...

11. If the location of the well, tunnel, or other development work is less than one-fourth mile from a natural stream or stream channel, give the distance to the nearest point on each of such channels and the difference in elevation between the stream bed and the ground surface at the source of development.

.....The pumping well will be located on the river bank of the Chetco River.....

River bank is approximately 30-feet above the stream bed.

12. Location of area to be irrigated, or place of use (see attached separate sheet)

[illegible]

(If more space required, attach separate sheet)

Character of soil

Kind of crops raised

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

PERMIT

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

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed3.5..... cubic feet per second measured at the point of diversion from the well or source of appropriation, or its equivalent in case of rotation with other water users, from ...A well.....

The use to which this water is to be applied is domestic.....

If for irrigation, this appropriation shall be limited to of one cubic foot per second or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed acre feet per acre for each acre irrigated during the irrigation season of each year;

The diversion point herein described is identical to that under permit No. 31365 and the total quantity of water withdrawn under this permit together with the quantity under permit No. 31365 shall not exceed 3.5 cubic feet per second.....

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

The well shall be cased as necessary in accordance with good practice and if the flow is artesian the works shall include proper capping and control valve to prevent the waste of ground water.

The works constructed shall include an air line and pressure gauge or an access port for measuring line, adequate to determine water level elevation in the well at all times.

The permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn.

The priority date of this permit is January 28, 1966 and shall Actual construction work shall begin on or before February 23, 1968

thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1968

Extended to Oct. 1, 1964
Complete application of the water to the proposed use shall be made on or before October 1, 1968

Extended to Oct. 1, 1974

WITNESS my hand this 23rd day of February, 1966

Extended to Oct. 1, 1979

Charles L. Ladd
STATE ENGINEER

Application No. G-3361
Permit No. G-3240
TO APPROPRIATE THE GROUND
WATERS OF THE STATE
OF OREGON
PERMIT

This instrument was first received in the
Office of the State Engineer at Salem, Oregon,
on the 28th day of January
1966, at 8:00 o'clock A.M.

Returned to applicant:

Approved: _____
February 23, 1967
Recorded in book No. _____ of
Ground Water Permits on page G-3240

CHRIS L. WHEELER
STATE ENGINEER
Drainage Basin No. 15 page 98
State Printing

Extended to October 1, 1989

BC extended to
10-1-85, 10-1-000

BEFORE THE
OREGON WATER RESOURCES DEPARTMENT

In the matter of the Application for an
Extension of Permit Number G 3240,
Water Right Application Number G 3361
Harbor Water People's Utility District

)
)
)
)
Protest/Request
for Hearing

rec'd
12-10-2004

WaterWatch of Oregon files this protest/request for hearing and a check for \$250 pursuant to OAR 690-315-0060, the provisions of the Proposed Final Order (PFO) (PFO at 9) and ORS 536.050(1)(j). WaterWatch requests that the Harbor Water People's Utility District's (hereinafter District) request for extension be denied unless it is conditioned to protect fishery values of the Chetco River and required aggressive conservation measures and can be justified in the context of the other undeveloped permits held by the District and the City of Brookings.

This extension request raises important legal and public policy issues regarding municipal water developers' ability to hang onto old undeveloped permits for speculative purposes. It also raises important legal and policy issues as to the extent to which the state can allow development of the waters of the Chetco River (and other rivers around the state) without protecting streamflows and water quality needed for public uses of water. These public uses include threatened coho salmon, fall chinook salmon, steelhead, wildlife and the scenic, wild and recreational values of this important river system.

The District is asking the Water Resources Department (WRD) to approve the District's plan to take up to 17.5 cubic feet per second (cfs) of water from the Chetco River for future development without any limitations to protect instream flows needed for public instream values. Also pending before WRD is a request by the City of Brookings (City) to approve its plan to divert an additional 20 cfs from the same section of the Chetco River for a service area within the City's urban growth boundary without any resource protection limitations. Under these proposals up to 37.5 cfs of water would be diverted from the Chetco River in a reach that already suffers from low flows and poor water quality. The City has acknowledged that increased withdrawals will have

significant, economic, social and environmental consequences for the river and surrounding communities.

WRD is at a crossroads. WRD can process the District and City's extension requests with a vision of future growth that includes a healthy flowing river or it can, as it has proposed in this PFO, condemn the Checto river and the public uses its supports to a slow death. WRD has the authority and the mandate to ensure "smart growth" – to protect the Chetco River and other critical Oregon rivers while addressing the growth needs of the District and encouraging regional water supply planning and development. To comply with these mandates, the District's extension requests as proposed must be denied and the District and neighboring City should work with WaterWatch and others to develop a plan for development of water supplies that will protect and conserve this and other important coastal streams for current and future generations.

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FACTS

The Resource Threatened by the Development – The Chetco River

The Chetco River arises in the mountains of the Kalmiopsis Wilderness Area and flows approximately 55 miles west to the Pacific Ocean. The river, from its headwaters down to the Siskiyou National Forest boundary is a federally designated Wild/Scenic/Recreational River. Exhibit 1: Letter from Frazier, Siskiyou National Forest to Oregon South Coast Fisherman at 1 (May 27, 1992). See also Exhibit 2: Chetco Wild and Scenic River, Oregon at 1. A 1990 U.S. Forest Service assessment of the Chetco Wild and Scenic River identified recreational, water quality and the fishery values as the "outstandingly remarkable values" (ORV) of the system.¹ Exh. 2 at 1-2. The river provides excellent spawning and rearing habitat and has some of the highest salmonid smolt returns of any coastal stream in Oregon. *Id* at 2. See also City of Brookings Water Conservation Management Plan, at 4 (April, 2000) (hereinafter WCP).

The state, under the Oregon Plan, has given the lower section of the river the "highest" priority ranking for flow restoration needs in the summer and fall months. Exhibit 3: Streamflow Restoration Priorities. See also WCP at 5. Low flows in the lower river, below the Forest Service boundary, threaten the viability of the fishery throughout the river system. Exhibit 4: Letter from Frazier, Siskiyou National Forest to City of Brookings at 1 (June 22, 1992). See also Exh. 1 at 2, Exhibit 5: Letter from Snow, Oregon Department of Fish and Wildlife to Bischoff, City of Brookings at 1-2 (June 8, 1995).

The Chetco River supports a wide range of fish species including coho salmon, fall chinook salmon, winter steelhead trout, cutthroat trout and lamprey. Exh. 2 at 2. See also WCP at 4. Coho Salmon were listed as threatened under the Federal Endangered Species Act (ESA) in 1998. Exhibit 6: Endangered Species Act Status of West Coast Salmon and Steelhead. The National Marine Fisheries Service (NMFS) has identified the Chetco River as providing critical habitat for this listed species. 64 Fed. Reg. 24049, 24053 (May 5, 1999), 50 C.F.R. § 226.210. Coho Salmon are also identified on the state

sensitive species list as "critical". Exhibit 7: Oregon Department of Fish and Wildlife Sensitive Species at 4. Steelhead trout were listed as a candidate for listing under the federal ESA in 1998 and are listed as sensitive "vulnerable" by the state. Exh. 6, Exh. 7 at 5. Fall Chinook are on the state sensitive species list as "critical." Exh. 7 at 4. These fish were proposed for listing in 1998. Exhibit 8: Economic, Social, Environmental and Energy analysis of Water Withdrawal from the Chetco River at 1. NMFS declined to list the species at that time based upon discussions with the Oregon Department of Fish and Wildlife (ODFW) but the fish remains on the agency's watch list and it's listing status is reviewed periodically. *Id.* Coastal cutthroat trout and pacific lamprey are also listed as sensitive "vulnerable" by the state. Exh. 7 at 5.

The value of these fisheries is inestimable. The river provides opportunities for sport fishing -- the true worth of which lies in its social, recreational and esthetic aspects, more than in monetary values. In terms of the local economy, the City of Brookings has estimated the economic value of the Chetco River sport fishery to its economy as approximately \$428,515 each year. Exh. 8 at 2-3. As one of the more productive anadromous fish streams on Oregon's mid coast, the Chetco River fishery also contributes significantly to the commercial fishing industry. *Id.*

The District has also recognized that the "primary environmental issue" for the District "is the protection of the watersheds on the Chetco . . ." See Harbor Water People's Utility District, Water System Master Plan at 2-5 (December 2000) on file at the Water Resources Department. The District notes that the Chetco "is know for its large salmon/steelhead fishery." *Id.* The District also recognizes that commercial and sport fishing, recreation and tourism are principle "industries" within the area. *Id.* at 2-6.

Instream flows in the lower Chetco River provide critical habitat for crucial life-stages of anadromous and resident fish species. Unfortunately, water withdrawals and diversions on coastal streams have greatly reduced or eliminated historically accessible habitat and/or resulted in direct entrainment mortality of juvenile salmonids. In the Chetco River and elsewhere, modification of natural flow regimes have resulted in

¹ To qualify as an ORV, these values had to be unique, rare or exemplary features of the river that are significant at a regional or national level. Exh. 2 at 1-2.

increased water temperatures, changes in fish community structures, depleted flows necessary for migration, spawning, rearing, flushing of sediments from spawning gravels, gravel recruitment and transport of large woody debris.

Both ODFW and the United States Forest Service have identified existing low flows and high temperatures in the lower mainstem Chetco as a major habitat limitation for salmonids. Exh. 1 at 2, Exh. 3 at 1, Exh. 4 at 7, Exh. 5 at 1. ODFW has long had concerns that increased water withdrawals will exacerbate existing low flow problems in the late summer and early fall months and further impact to fisheries resources, particularly juvenile Chinook salmon. Exh. 5 at 1, Exhibit 9: ODFW Memo from Stauff at 1 (July 15, 2002).

The Forest Service has also identified further withdrawals in the lower river during low flow periods as perhaps one of the most significant threats to the anadromous fishery within the Wild and Scenic sections of the river. Exh. 4 at 1. This is because anadromous fisheries in the Chetco are already significantly affected in the late summer and early fall by low flows and high water temperatures in the lower river and further reduction in streamflows will only increase those adverse affects. *Id.* Both ODFW and the Forest Service have indicated that increased withdrawals by the City of Brookings and the nearby Harbor Rural Water District in the lower river will exacerbate flow problems at a critical time for both juvenile rearing and fish passage. Exh. 5 at 2, Exh. 9, Exhibit 10: Letter from Frazier, Siskiyou National Forest to Curry County Commission (June 16, 1992). The Forest Service, in a letter to the Curry County Commissioners stated that decisions about future growth of water demand in the Chetco needed to be made carefully if "we are to avoid causing the Chetco Chinook race to go extinct". Exh. 10 at 2.

The City of Brookings has also recognized the importance of the Chetco fishery and the adverse effects expanded water developments will have on these resources:

"Allowing the full impact of the conflicting use [City's water withdrawal], 16-20 cfs withdrawn, would cause significant impact to the resource. This may or may not cause extirpation of the [Chinook salmon] population, but it would dramatically reduce the fishery, potentially resulting in the loss of the fishery. Full use of the conflicting use may lead to this population being listed under the ESA."

Exh. 8 at 1-2. *See also* City WCP 3-4, 14-15. The City has also recognized the social impacts of unlimited water withdrawal as lost recreational values including fishing, boating and swimming and environmental impacts as loss of rearing habitat in the estuary, increased water temperatures, possible migration barriers and increased predation. *Id.* at 3.

Chetco River Flow Needs

The state has determined the flow needs of Chetco River fishery. There are three instream water rights established for the mainstem Chetco which protect instream flows for needed for fish and other aquatic life. The most senior right IS 59830, with a May 1964 priority date, was established through conversion of a minimum perennial streamflow. Exhibit 11. This right protects flows of 80 cubic feet per second (cfs) year round in the Chetco River and its tributaries upstream from the confluence with the North Fork Chetco.

The two other instream water rights protect flows in Chetco River below the confluence with the North Fork Chetco. The more senior right, (priority date of April, 1980) was established through conversion of a minimum perennial streamflow and protects instream flows to tidewater. Exhibit 12. This instream right protects flows ranging from 450 cfs in the winter time to 80 cfs in the late summer and early fall. The junior right, (priority date of November 1990) protects flows ranging from 595 cfs in the winter months to 101 cfs in early fall down to the mouth of the Chetco. Exhibit 13.

Chetco River Water Quality

In addition to flow, water quality is an important factor in the health and survival of the fish and their habitat. The Chetco River, from river mile 0 to 39.4, has been listed by the Department of Water Quality as water quality limited for temperature, habitat modification and flow modification. Exhibit 14: Excerpt from the Department of Environmental Quality Water Quality Limited Data Base. The listing for temperature covers the summer season. *Id.* The beneficial uses of salmonid fish rearing and anadromous fish passage are affected by the adverse water quality conditions identified in the listing. *Id.* The beneficial uses of resident fish and aquatic life, particularly salmonid

fish spawning and rearing are affected by adverse water quality conditions identified in the listing. *Id.*

Low flows in the lower river exacerbate already high temperatures, creating conditions that severely stress fish. Exh. 10 at 1, Exh. 1 at 2. See also Exh. 8 at 3. There have been incidents where smolts have been killed by extreme conditions in the river. Exh. 10 at 1. Low flows worsen summer heating effects. Exh. 1 at 2. In a 1996 joint assessment of fish habitat conditions completed by the Forest Service and ODFW identified existing high temperatures in the lower mainstem as a major habitat limitation for salmonids. *Id.* Additional water withdrawals from the Chetco River will further degrade water quality and have adverse effects on fish that utilize the areas of the stream affected by increased diversions. Exh. 4 at 1, Exh. 5, Exh. 8 at 2-3, Exh. 9 at 1, Exh. 10. In addition, the use of ranney collector style diversions, such as that used by District, may have even greater adverse effects on stream temperatures because the collector removes the cooler water in the stream bed gravels. Exhibit 15: Letter from Woodcock, WRD to ODFW at 2 (July 16, 2002).

The District's Permit

The District's permit allows diversion of up to 3.5 cfs for domestic use² of water from ground water that is directly connected to the Chetco River. Exhibit 17. The permit allows use within the District boundaries on lands specified on the application map and permit on file with the Department. Exhibit 16. This permit has a priority date of January 28, 1966. Issued in February of 1967, the permit required complete application of water to domestic use by October 1, 1969. Over the past 36 years the permit development deadlines have been extended 6 times. The most recent extension required complete application of water by October 1, 2000.

In 2003 the District requested an extension until 2008 to complete development. In October 2004 the Department issued a Proposed Final Order (PFO) approving extension of the permit until October 1, 2008 – which would allow a total of 42 years for permit development.

² Domestic Use is defined as the use of water "for human consumption, household purposes, domestic animal consumption that is ancillary to residential use of the property or related accessory uses." OAR 690-300-010(14).

Permit Development

The District's method of diversion is a Ranney Collector that is directly connected to the Chetco River and is designed to divert surface flows. This diversion directly influences and diminishes surface flows in the river. Pumpage from a similar type of intake by the City of Brookings on this stream system has been found by the Department to have "a gallon-for-gallon impact" on the Chetco River." Exh. 15 at 1.

According to information submitted by the District, the maximum capacity of its existing diversion system from the collector is limited to 6.1 to 7.1 cfs. Actual diversion and use by the District is far less. The District's 2003 extension application states its "maximum rate" of diversion is 1.86 cfs. This "maximum rate" appears to reflect a unique one-time peak in diversion on September 21, 2002. Using the District's 2003 service population of 3900 – this peak usage is at 308 gpcd. This peak usage rate is much higher than that of other coastal water providers. *See for example* City of Siletz (peak day demand of 172 to 230 gpcd), Kernville-Gleneden Beach-Lincoln Beach Water District (peak day demand of 178 to 187 gpcd) and Southwest Lincoln County Water District (peak day demand of 123.2 gpcd) (Rock Creek Regional Water Supply Project Preliminary Water Management Plan at 5-5 to 5-8 (January 2002).

The District states that its estimated water use by 2004 will be 3.3 cfs (533 gpcd) and 3.5 cfs in 2006 (481 gpcd) - double the unique one-day peak in 2002. To justify this large increase in its estimated diversion the District appears to assume a 3% growth rate within present district boundaries and service of other areas not specified in the permit that are within the City of Brookings Urban Growth Boundary. This 3% growth rate is much higher than the 1% growth rate cited by the District in its 2000 Water System Master Plan that is on file with the Water Resources Department. That plan noted that District personnel had concluded that much of the available property within the district boundaries had already been developed. *See* Plan at 2-7. These demand figures also assume use of water for commercial and other uses that are not authorized under this domestic use permit. Finally, these use figures assume that use will occur outside what appears to be the authorized area of use under the permit.

Today, more than 30 years after permit issuance, the District claims it will have developed a total of 3.3 cfs to serve lands that are apparently not authorized under the permit and for uses not authorized under this permit. This claimed "maximum diversion rate" also exceeds the actual peak diversion of 1.86 cfs and is not supported in the record.

Projected Water Needs and Usage

In addition to this 3.5 cfs permit, the District holds permit #9438 which allows for 7 cfs of ground water which is directly connected to the Chetco River and a 7 cfs surface water permit (4383) from the Chetco River for municipal use. The District also has a surface water permit (31365) for 3.5 cfs from the river that is to be used in conjunction with the groundwater permit that is the subject of this extension. Diversions under permit 9438 and 31365 can not exceed 3.5 cfs. Taken together the District permits allow a total diversion of 17.5 cfs from the Chetco River. Past development actions and investments cited by the District in each of its previous extension requests were the actions it was taking to develop this point of diversion and were not specific to development of this permit.

The District's growth projections are based upon assumptions of use outside the authorized permit area, includes uses other than domestic use and are based upon estimates of per capita water usage that greatly exceeds existing per capita use. In addition, growth projections do not include reduced projected water demands based upon future conservation efforts.

According to the population figures in the District's extension application, full use of water under this permit within the District's current service area at the existing per capita rate of 308 gpcd³ would not occur until 2050 or later at the more reasonable 1% growth rate. Even assuming a 3% growth rate within the District's existing service area – the demand would not occur until 2020 or later.

There is no information or analysis in the file showing how the District's population and water demand figures are consistent with local land use plans raising the question of whether these water demands will ever materialize. In addition, the District's projections for future water demand appear to already be covered in the City of

³ Full development of this 3.5 cfs permit at this rate would serve approximately 7,344 people.

Brookings claims of future water needs within the UGB made in proceedings relating to the recent Urban Growth Boundary expansion and the City's water use permits. In the land use proceedings the City indicated that peak summer use with the City in 2001 was 3.7 cfs in and that City's projected peak use of water at build out of the UGB over the next 20 years was 5.1 cfs. Exh. 9 at 2, Exhibit 20: Letter from Snow, ODFW to Blodgett, District of Brookings (June 20, 2002).

The District's extension request and WRD's PFO also ignore the limitations on water use within the UGB that were developed as part of the UGB expansion in order to protect the Chetco River fishery. Ordinance No. 00-0-540 at 1-2. These requirements include (1) the City of Brookings working with the Harbor Water District and Curry county to develop alternatives to water withdrawals from the Chetco during the late summer months, (2) limiting use to ensure diversions will not negatively impact the fish resource, and (3) adoption of a City ordinance to implement curtailment measures when surface water flows drop to 80 cfs and below. Exhibit 21: Amendments to City Comprehensive Plan Policies. The City has since adopted an ordinance stating that it will limit water withdrawals to a daily average of 5.1 cfs when the 3-day average flow in the river drops below 80 cfs and adopting a "guideline for Levels of Curtailment [that] may be implemented." Exhibit 22: City of Brookings Ordinance No. 02-0-553 at 1-2 (emphasis added).

The District's extension request and WRD's PFO also ignores an agreement the City reached with ODFW as part of the land use proceedings relating to use of water within the expanded UGB. Under this agreement the City agreed to (1) limit use to 5.1 cfs from July through September when flows in the Chetco were at 80 cfs or lower, (2) implement mandatory conservation/curtailment measures when river flows were at or below 80 cfs, and (2) telemeter diversions at its ranney collector and post the information for public review. Todd Confir, ODFW (September 19, 2003).

Summary

The District's proposed withdrawals would have a direct, significant impact on the salmon, steelhead and other fish resources and water quality throughout the river system. Since this permit was issued several species of fish have been listed as state

sensitive species or have been listed or are considered for listing under the federal ESA. The river has been listed as water quality limited for temperature and flow and habitat modification. The state has designated the Chetco River as a high priority for stream restoration and even the City of Brookings has acknowledged the importance of curtailing water use to protect fisheries.

Yet, WRD is proposing to do absolutely nothing to protect this important public resource. The PFO merely mentions the resources that would be effected by the proposed extension but contains no analysis of the water needs of fish, wildlife, water quality and wild, scenic and recreational values of the Chetco River and the effect of increased diversion on these competing demands for water. In addition, nothing in the PFO conditions further use to address the adverse effects of increased withdrawals would have on instream values. The PFO doesn't even require the District to comply with water use restriction requirements that were a part of the UGB expansion which WRD had notice of before it issued the PFO. Exhibit 23: Memo from Woodcock, WRD to Juul, WRD (July 3, 2003).

SIGNIFICANT DISPUTES OVER WATER

The agency rules provide that a contested case hearing be held if the Director finds there are significant disputes related to the use of water. OAR 690-315-0060(3)(b)(a). WRD is well aware that significant controversy exists over continued development of the District's and neighboring City's Chetco River permits and over long-term extensions of municipal water permits on critical salmon and steelhead streams. WRD files on other extensions and relating to the work group and rulemaking that led to the municipal extension rules are riddled with letters raising concerns about this type of speculative development and the effect it will have on important river values. In addition, over the years WaterWatch, the Forest Service, ODFW and others have raised concerns about the effect increased withdrawals in the Chetco River system will have on the fishery resources of the Chetco River. *See for example* Application R 73396, 73397 and City of Brookings Permit Application files.

As outlined in this protest, the conditions in the PFO do not protect WaterWatch's interests. Clearly, significant disputes remain over the proposed use of water and a hearing must be held.

DUTY TO UNDERTAKE INDEPENDENT INVESTIGATION OF CLAIMS

The Attorney General's office has opined that the agency may rely on any evidence, whether circumstantial or direct, in determining whether an extension request meets the requirements of the state. The Attorney General has further advised that the agency can, at any time, undertake independent investigation of the facts asserted by the permittee. This investigation can occur on the agency's own motion or in response to evidence or even an argument presented which questions the facts asserted.

Here, the proposed final order relies entirely on claims made and/or information provided by the permittee. The permittee has failed to provide evidence that shows that the demands upon which its request is based upon will ever materialize. In addition, the public ownership of the water at issue in this proceeding, the presence of listed fish species, the minimum streamflows, the existing publicly held instream water rights, the wild, scenic and recreational designations of the river and the state and nationwide significance of this river create a duty on the agency to undertake a more thorough investigation of the permittee's need for water. The PFO refers to statements made by the extension applicant without requiring any supporting documentation and without any analysis as to what the need for water in the context of the City of Brookings extension request and the Districts other pending extension requests. The PFO contains no analysis of the effect of granting these requests on the public interest uses of the Chetco and fails to condition further use on protecting these competing demands from harm.

The state must undertake an independent and detailed review of this extension request. Much is at stake here. The "review" in the PFO falls far short of the duty created by the laws and policies of this state.

EXTENSION LAW

A water permit is a right to appropriate and beneficially use water, not a right to speculate. The prohibition against speculative holding of water is generally implemented in western water law at the permitting stage by a requirement that there be a plan for development of the permit and timelines for implementation of that plan. See Sax, et al Legal Control of Water Resources, 2d Ed., at 286.

Oregon has adopted the prohibition against speculative holding of permits by requiring the development and use of water within five years from the date of approval of an application for a permit. ORS 537.630. Nothing in the statutes exempt domestic uses of water from this requirement of beneficial use within 5 years of permit issuance.

Extensions of time to complete construction or put water to use are allowed upon a showing of "good cause". ORS 537.630. The "good cause" review is permit specific – efforts under one permit can not be used as a showing of "good cause" under another permit. The term "good cause" is a broad legal standard that gives the agency discretion to consider a variety of factors and must be interpreted and implemented by the agency in a way that is consistent with the agency's policy goals and general statutory authority. Advice of Attorney General to Water Resources Department DOJ File No. 690-303-GNS0403-95 at 8 (June 26, 1997). ORS 537.230(2) and ORS 539.010(5) provides the minimum statutory guidance as to what the legislature intended when it used that term. When making a "good cause" determination the agency is required to at least consider and "give due weight" to:

The cost of the appropriation and application of the water to a beneficial purpose, the good faith of the appropriator, the market for water or power to be supplied, the present demands therefor, and the income or use that may be required to provide fair and reasonable returns on the investment.

ORS 539.010(5), *see also* ORS 537.230, OAR 690-315-0040. Under this analysis the agency must consider the amount of water available to meet other competing demands for the water, which include the needs of sensitive, threatened, or endangered fish, special river protection designations and water quality limitations. *See* OAR 690-315-0040(4) and Advice of Attorney General to Water Resources Department DOJ File No. 690-303-GNS0403-95 at 8 (June 26, 1997). The "good cause" determination also requires that

the permittee demonstrate reasonable diligence in development of the permit. OAR 690-315-0080(2)(a).

Finally, the Water Resources Commission and its Department have an obligation to ensure that every action it takes will protect the public ownership and control of waters affected by the action and the public trust therein. ORS 537.110 (water, from all sources of supply in Oregon belongs to the public) and ORS 536.220(2)(a) (all its actions the agency must act in a way that will "best protect and promote the public welfare generally.") *See also* OAR 690-410-030 and 690-517-0050 placing a high priority on protecting streamflows and restoring needed for public uses, requiring appropriations of water under existing rights to be subject to minimum streamflows. This includes any extension decision made by the agency. The existence of instream water rights in a stream system such as the Chetco River does not in any way diminish the public trust obligations that are placed upon the state when making extension decisions. ORS 537.334(2).

If the permittee has met these requirements, extensions can only be granted for the "reasonable time period necessary to complete water development or apply all the water to beneficial use." OAR 690-315-0050(4), 690-315-0090. Approval of an extension request can include any condition needed to ensure future diligence, mitigate the effects of development on competing demands and document the continued need for the permit. OAR 690-315-0050(5).

REASONS THE PFO IS DEFICIENT AND THE EXTENSION CANNOT BE GRANTED

- 1. The PFO is in Error because the "good cause" determination does not meet the requirements of OAR 690-315-040.**

Extension law specifically requires the Department to consider the amount of water available to meet competing demands for water in extension decisions. ORS 537.630, 537.230(2), 539.010, OAR 690-315-0040(4). The Department has interpreted these demands as including other uses of the water such as other water rights; special use designations such as water quality limited sources, scenic waterways and habitat needs of critical fish populations.⁴ The rules specifically require the agency to consider the "amount of water available to satisfy" instream rights, the habitat needs of sensitive, threatened or endangered species and water quality limited listings and federal wild and scenic river designations. OAR 690-315-0040(4).

The findings in the PFO clearly do not meet the rule requirements. The PFO merely notes the water quality limited status of the River and highest ranking for streamflow restoration (Finding of Fact 13 at 5-6) and the presence of "sensitive, threatened or endangered species" (finding of Fact 14 at 6). This is not an assessment of the habitat needs of listed species or the amount of water available to these competing demands as required by the rules. OAR 690-315-0040(4). In addition, the PFO fails to mention, much less address the amount of water needed and available for existing instream rights and minimum streamflows in the river segment that will diminished by

⁴ OAR 690-315-040(4) states:

"In determining the market and the present demand for water or power to be supplied pursuant to subsections (2)(d) and (e) above, the Department shall consider, but is not limited to, the following factors:

- (a) The amount of water available to satisfy other affected water rights and scenic waterway flows;
- (b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);
- (c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;
- (d) Economic investment in the project to date;
- (e) Other economic interests dependent on completion of the project; and
- (f) Other factors relevant to the determination of the market and present demand for water and power."

the proposed extension. The PFO also ignores existing upstream federal wild and scenic river designations that will be affected by increased use of water under this permit.

The Department has not considered the market and present demands for water as required by the rule. The findings and conclusions of the PFO at pgs 5-7 are deficient. Good cause has not been shown for this extension. The extension request must be denied.

2. The PFO is in error because it allows an extension that does not meet the requirements of the South Coast Basin Rule

The Chetco River falls within the South Coast Basin. Exhibit 25 at 1. WRD's basin planning rule for the south coast basin prohibits "appropriations of water" from the waters of certain streams when flows drop below levels specified in Table 1 of the rule. OAR 690-517-0020(1). *Id.* At 8. ¹ The rule allows limited exceptions from this prohibition for domestic or livestock uses and irrigation of noncommercial gardens. *Id.* However, the District's proposed use of water under this extension is for water uses that do not qualify as domestic use and are not entitled to this exception.

Table 1 establishes minimum perennial streamflows protecting the lower reach of the Chetco River - "Chetco River: below North Fork Chetco River and maintained to tidewater." *Id.* At 10. The table lists two minimum flows, one with a date of 5/22/64 that protects 80 cfs in the lower river year round, and one with a date of 4/1/80 which protects flows ranging from 450 cfs in the fall to 80 cfs in the summer.⁵ *Id.* The basin rule further provides that permits issued prior to the effective date of the program are subject to these minimum flow provisions. See OAR 690-517-0050 "(w)ater rights and permits issued prior to the effective date of this program shall not be affected except as provided in OAR 690-517-0020 . . ." *Id.* at 9 (emphasis added).

In the case of the District's extension request, WRD's own rules prohibit it from allowing any additional appropriation of water when flows for the Chetco River drop below the levels specified in Table 1. WRD failed to condition the use to protect

⁵ The table protects the following flows: January through May 350 cfs, June 1 - 15 200 cfs, June 16-30 100 cfs, July through September 80 cfs, October 1 - 15 200 cfs, October 15-31 450 cfs, November through December 450 cfs.

minimum flows specified for the Chetco River in the South Coast Basin Plan and therefore violates the requirements of the Basin Planning rule. The extension must be denied.

3. The PFO Is in Error Because it Failed to Adequately Consider and Protect Other Competing Demands and Markets for the Water Subject to Extension in violation of Oregon Water law.

In addition to the specific requirements of the extension statute, the Department has an obligation to act consistent with other statutory directives and policies. These laws require that the Department ensure its action will not impair the public's rights and ownership in the water – including the flows need for fish resources in the Chetco River. Other policies, positions and law require protection of the public values that rely on flows in the Chetco River. *See* argument above.

The PFO is deficient because it was utterly devoid of any analysis of the effects of the increased use proposed under the extension on competing demands and markets for the water that is the subject of the extension other than those proposed by the District. The good cause review is not so limited. Not only is such a narrow review contrary to the law, it is bad public policy. Other demands and markets for the water, including those uses that rely on water instream must be considered as part of a good cause determination. These demands must be considered and weighed against continued use of water under the permit. Where, as here, the proposed use is inefficient, speculative, serves a private interest and will adversely affect important public interest uses of water – the agency must condition further use to protect affected public uses at the time of extension of the permit.

a. The Water is Needed for Existing Instream Water Rights.

The District's proposed extension would take water from within the reach protected by the two Chetco River instream water rights. These instream rights represent the bare minimum levels needed to sustain fish. These flows are critical to sustaining water quality in the river and the threatened, sensitive and native fish species that rely on these flows for survival. Under existing conditions, these instream water rights are not

met during the months of May through November. The late summer, early fall months are especially critical for fish in the Chetco River.

Any increased use under the District's permit will further diminish minimum flows that are already not being met May through November. This diminishment of flows, below the levels needed in the instream water rights, will result in injury to the rights and the public values they protect and is contrary to Oregon water law. See ORS 536, ORS 537 and implementing rules.

The seniority of, and/or the presence of conditions on the instream water rights does not somehow eliminate the obligation on the part of the Department to consider these competing rights when making the extension decision. The District has failed to develop the permit within the time period required. In fact, it has failed to fully develop the permit for over 40 years now. In this instance, where the permittee is requesting the alteration of one of the limits for development of the permit, the Department has the duty consider other demands when determining whether the unused water would be of greater value for other uses or should remain allocated for the District's use.

The instream water rights protect flows needed in the lower Chetco River – a river of statewide and nation wide significance ecologically, economically and spiritually. WRD, as the agency that holds these rights in trust for the people of Oregon, has an obligation to ensure that they are protected when it considers extension decisions. The extension should be denied to prevent injury to the existing instream water rights for this river.

b. The Water is Needed for Fish in the Chetco River System and the Chetco Wild and Scenic Waterway

The Chetco river provides excellent spawning and rearing habitat and has some of the highest salmonid smolt returns of any coastal stream in Oregon. The Chetco River supports a wide range of fish species including coho salmon, fall chinook salmon, winter steelhead trout, cutthroat trout and lamprey. Coho Salmon were listed as threatened and steelhead are a candidate for listing under the Federal Endangered Species Act (ESA) in 1998. Several other species of fish, including fall chinook salmon are listed as state sensitive species. The value of these fisheries is inestimable.

Today, flows in the Chetco River are not only insufficient to meet the bare minimum levels need to sustain fish during critical summer and fall months, they are inadequate meet the higher flow levels needed to optimize habitat for sensitive and threatened Chetco River fish. In addition, water quality in the stream is critical to fish survival. The District's diversion will harm fish because it will diminish flows and water quality needed for all life stages of fish in the creek. ODFW and the Forest Service are concerned that increased diversions from the lower river system could lead to extirpation of the fall Chinook salmon run in the Chetco. Even the neighboring City has acknowledged that this is a possibility.

Failure to protect streamflows needed for fish in the lower river has impacts all the way up the river system to the headwaters. The Forest Service has identified further withdrawals in the lower river during low flow periods as perhaps one of the most significant threats to the anadromous fishery within the Wild and Scenic sections of the upper river. This fishery is one of the designated Outstanding Resource Values for the Chetco Wild and Scenic River system.

These fishery values of the Chetco River are public values that accrue to the public at large. Flows for these fish constitute a public use of water that has far reaching importance, not just for Oregon, or the Pacific Northwest, but for the whole Nation. This demand for water provides numerous benefits which include maintaining the biological integrity of the Chetco River and other coastal streams, reaping economic benefits from commercial harvest and sport fishing, the cultural and economic benefits for coastal Tribes and defining the culture and identify of the Pacific Northwest. The City has estimated the annual value of the sport fishery to just the City of Brookings at over \$400,000. These competing demands mean that Oregon can not afford to invest its water resources yet again in the status quo. Particularly a status quo that has already had over 40 years and has not developed more than half of the water under this permit.

The public instream values affected by diminished flows, such as fishing, swimming and recreation, vastly outweigh the private, limited interests of the District. These values are in no way diminished or conditioned by the establishment of instream

water rights on the river. ORS 537.334(2). WRD can not escape its obligation to consider and protect these values when it makes an extension decision.

The District has the ability (indeed the obligation) to pursue other options to meet its future needs. The fish in the Chetco River do not. There is a higher value in leaving the water instream for the public instream values of the Chetco River than in allow continued speculation on the part of the District. The extension should be denied.

c. The water is needed to protect water quality in the Chetco River system.

In addition to flow, water quality is an important factor in the health of the ecological values of the Chetco River system and survival of the fish and their habitat. The River, from river mile 0 to 39.4, has been listed by the Department of Environmental Quality as water quality limited for temperature, habitat modification and flow modification. The affected beneficial uses include aquatic life, salmonid fish rearing and anadromous fish passage

Low flows in the lower river exacerbate already high temperatures, creating conditions that severely stress fish and have resulted in fish kills. Additional water withdrawals from the Chetco River will further degrade water quality and have even greater adverse effects on fish that utilize the areas of the stream affected by increased diversions. In addition, the type of diversion used by the District may have even greater adverse effects on stream temperatures because the collector removes the cooler water in the stream bed gravels.

These water quality values of the Chetco River are public values that accrue to the public at large. These values outweigh the limited interests of the District. These values are in no way diminished or conditioned by the establishment of instream water rights on the creek. ORS 537.334(2). The Department can not escape its obligation to consider and protect these values when it makes an extension decision. The extension would exacerbate existing water quality problems in the river and should be denied.

d. The Water is More Valuable Left Instream for Public Uses

Existing streamflows in the Chetco River support salmon and other fish populations. These flows also support important recreational activities such as fishing, swimming and boating in both the lower and upper river. As one of the more productive

anadromous fish streams on Oregon's mid coast, the Chetco River contributes to the sport and commercial fishing industry and the communities that economically benefit from these activities. These fish provide tremendous economic returns to the Oregon, regional and national economy. These returns can be in two categories – raw material inputs to industries and amenities that contribute to the quality of life in this State.

Fish are essential to Oregon's coastal commercial and recreational fisheries. However the severe decline in many fish populations have led to protective listings to ensure species survival. These listings have had adverse economic consequences for coastal fishing economies, commercial and sportfishing industries and tribal communities.

Over the past several years the state has actively funded efforts to protect and restore fish populations on the coast and throughout the state. The Chetco River is one of the streams that has been the subject of state funded monitoring and restoration efforts through the South Coast and other watershed councils. The protection and restoration of fish populations on the coast have direct economic benefits, however, monetary estimates to not capture the true value of fish populations in the state. The true worth of tribal, commercial and sport fishing lies in its social, recreational and esthetic aspects, more than in monetary values.

It is undisputed that salmon and steelhead contribute to the quality of life in Oregon and the Pacific Northwest. To the extent that fish contribute to the region's quality of life, decline or instream in fish populations will influence all aspects of the region's economy. These values far outweigh the value in allowing continued speculation and marketing of water on the part of the District. The extension must be denied.

4. The PFO Violates the Federal And State Laws and Policies Requiring Protection of Fish and Wildlife and Their Habitats

The good cause determination includes consideration of other competing demands for the water at issue under the extension. ORS 537.630, 537.230, 539.010 and OAR 690-315. More specifically, the rules require consideration of the extension

request in the context of its effect on public instream uses of water. When making the good cause determination the agency must comply with other laws and policies that mandate the protection of these important public values when making an extension decision.

a. Violates the Principles and Mandates of the Oregon Plan for Salmon and Watersheds

The State of Oregon has stated it's intent to play a leading role in protecting and restoring Oregon coastal coho and other salmonids through the implementation of the Oregon Plan. Exhibit 24: Executive Order No. EO 99-01 at 2. The purpose of the Oregon Plan for Salmon and Watersheds is to "restore Oregon's wild salmon and trout populations and fisheries to sustainable and productive levels that will provide substantial environmental, cultural, and economic benefits and to improve water quality." *Id.* All state agencies are required to implement the plan in a timely and effective manner considering the overall objective of the Plan which is to protect and restore salmonids and to improve water quality. *Id.* at 3. In an executive order, then Governor Kitzhaber directed that state agency actions that are for a purpose other than restoration of salmon or their habitat must

"to the maximum extent practicable minimize and mitigate adverse effects of the actions on salmonids or the habitat they depend on; and . . . not appreciably reduce the likelihood of the survival and recovery of salmonids in the wild."

Id. at 3. Flow restoration in the Chetco River has been identified as a priority under the Oregon Plan. Exh. 3. This river has also been the focus of numerous watershed monitoring and restoration efforts by local watershed councils under the auspices of the Oregon Plan. WRD has both the statutory authority and mandate to not only consider the needs of salmon and steelhead in an extension proceeding, but also to protect those values.

The action proposed by the Department in its PFO is clearly directly contrary to the directives of the Executive Order, the commitments and requirements of the Oregon Plan and the designation of the Chetco River as a flow restoration priority. This action directly negates and undercuts all the restoration efforts of local watershed councils.

This extension is contrary to both the spirit and the requirements of the Oregon Plan and should be denied.

b. Violates State Law and Policy Which Place a High Priority on the Protection and Restoration of Streamflows, Water Quality and Wildlife and On Efficient Water Use.

Oregon law recognizes the public ownership of the resource (ORS 537.110) and mandates that WRD and the Water Resources Commission ensure that any action it takes "protects and promotes the public welfare generally." ORS 536.220(2)(a). The Commission's statewide policies, adopted in the early 1990's, guide all agency actions and place a high priority on the protection and restoration of streamflows needed for public values⁶ and the elimination of waste and improvement of efficiency measures⁷ and the responsibility to protect existing rights (both in and out of stream)⁸. These policies and statutory mandates combined with other statements made by the Commission show that the state has long recognized the importance of healthy streams as critical to the economy and livability of Oregon and that these values must be protected in any water allocation decision – including extensions.

It is the public policy of the state to conserve the state's waters and to protect, maintain and improve the quality of waters of the state for beneficial uses. ORS 468B.015. Oregon law further declares that it is the policy of the state to provide for the prevention, abatement and control of new or existing water pollution. ORS 468B.015(4).

It is also the policy of the state to maintain all species of wildlife (including fish) at optimum levels for future generations and to develop and manage the waters of the state in a manner that will enhance the production and public enjoyment of wildlife. ORS 496.012. It is also state policy to maintain species of food fish at optimum levels and to prevent extinction of any indigenous species. ORS 506.109.

This proposed extension is contrary to all those policies and must be denied.

c. Violates the Agency's Public Trust Obligation

⁶ The policy places a "high priority" on protecting streamflows that are needed to support public uses and are needed for state scenic waterways. OAR 690-410-030(1) and (2)(b). The policy also requires the development and implementation of methods to restore streamflows in areas where streamflows have been depleted to a point that public uses have been impaired. OAR 690-410-030(1).

⁷ OAR 690-410-060(1).

The presence of junior and/or conditioned instream rights on the Chetco River does not in anyway diminish the public's rights in the ownership and control of the waters of this state or the public trust therein. ORS 537.334(2). Adequate flows in the river are critical to the survival of threatened and sensitive salmon and steelhead and other fish species in the Chetco River. Adequate streamflows are also needed to preserve the quality of river flows and the ecological integrity of the river and the wildlife that depends up it. Adequate flows are also critical to protecting the outstanding resource values of the upstream Chetco Wild and Scenic River.

The agency has an obligation to act in a way that will not undermine the public trust values of the Chetco River. This obligation finds its roots in common law and is repeatedly acknowledged and reaffirmed in the water code and the Department's rules implementing the code. ORS 536, 537, OAR 690. The action proposed in the PFO will harm fish, water quality, recreational, scenic, and wildlife values of the Chetco River and thus violates the public trust obligations of the state. The extension must be denied.

d. Likely to Result in "Take" of Federally Listed Species.

Coho salmon in the Chetco River are listed as threatened under the Federal Endangered Species Act (ESA). Section 9 of the ESA prohibits the "taking" of endangered species. 16 USCA Section 1538(a). The National Marine Fisheries Service (NMFS) has, by rule, extended the Section 9 prohibition against take to these threatened species. Taking is defined to include "harm" as well as "killing" and "capturing". 16 USCA Section 1532(19). Harm includes significant habitat modification or degradation. 50 CFR Section 17.3.

The state has an obligation under the ESA not to authorize actions that will take listed species. The action proposed in the PFO will diminish flows needed for listed coho salmon. The extension should be denied.

e. Violates the South Coast Basin Rule

See argument above.

5. The PFO is in error because the Permittee failed to Show a Need for the Water.

³ OAR 690-400

Extensions of time can only be granted for good cause shown. ORS 537.630, 537.230, 539.010, OAR 690-315. A critical part of the good cause determination is whether the permittee intends to diligently develop the use within the terms of the permit. *Id.* Critical to the good cause determination is the intent and ability on the part of the permittee to beneficially use the water. *Id.* Thus the permittee must show a demand for the water to be supplied within the terms of the permit, such as use of water for the beneficial use and place of use authorized under the permit. The projected demand must also be based upon some documentation or analysis that uses reasonably accepted methods for determining future water demand. The District did not demonstrate a need for water. The PFO is in error.

a. The District has not shown a need for water

In the past 38 years the District has only developed one half of the water allowed under this permit and has provided conflicting and unsupported claims as to its future water needs. The higher demand projections are based on assumptions of an extremely high growth rate of 3% within district boundaries and 5% outside of district boundaries. Not only is assumed growth rate for the existing service area even higher than that projected for other coastal cities such as Lincoln City which uses a 2% growth rate for its demand projections, it is not supported in fact. District staff has acknowledged that growth within existing district boundaries is likely to be small given that is at or near build out condition. In addition, estimates of demand occurring outside of District boundaries is not relevant if the lands are not within the authorized place of use under the permit.

The demand projections for 2004 of 3.3 cfs are also based upon a rate of use that is far greater than even the one time peak use of 1.86 cfs in 2002. Using the District's estimate, the per capita rate of use would be approximately 533 gpd – half again as much as the 308 gpcd used during the one time peak use in 2002. The projections also assume 17% unaccounted for water and do not include any assumptions relating to water conservation. These projections are based on a maximum daily demand that even exceeds that maximum per capita use of the neighboring Harbor Rural Water District. These assumptions result in demand projections that overstate the District's future need.

In addition, the Districts need for the water must be evaluated in the context of its other municipal water use permits and the City of Brookings water use permits. These permits are clearly relevant to this extension request. OAR 690-315-0020. See also OAR 690-315-0050(3). If these other rights are actually not viable alternative sources of water to supply the need identified by the District then these rights should be cancelled. It should be clearly determined which service area will be covered by the District or City and what the actual demands will be. Failure to make that determination means that the District's projected needs speculative at best.

The District has not shown that conservation and/or, its other existing sources are insufficient to meet the immediate and future water needs of the service area the District's claimed service area. The District has also not provided information and analysis as to its need in relation to the neighboring City's needs and existing water sources and appears to have over inflated its water demand. The extension must be denied.

b. Demand Projections Must Include Some Level of Assumed Efficiency.

Beneficial use is the basis, measure and limit of all rights to the use of water in Oregon. ORS 537.525(3), 540.610(1). "Beneficial use" in Oregon is essentially the efficient use of water without waste for a purpose consistent with the laws and best interests of the people of this state. OAR 690-300-010(5). Oregon law calls for the state to "aggressively promote" water conservation and places a "high priority" on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a), OAR 690-410-060(1).

Thus, under this statutory structure, the "good cause" determination necessarily includes consideration of whether the water will be put to beneficial use without waste. There is nothing in the file that indicates that the District's demand projections were evaluated in the context of water use efficiency.

In fact, the findings in the PFO are based upon demand figures that do not include any assumptions of any level of water use efficiency. Conditioning the permit to require future submission and approval of a Division 86 Water Conservation and Management plan (see condition 1) does nothing to ensure efficiency because these rules

lack conservation standards and deadlines for achieving water use efficiency. The demand projections used to justify this extension do not show intent to beneficially use water under the permit. Good cause has not been shown for the extension and the extension must be denied.

6. The Proposed Use Does Not Meet the Requirements of Land Use Laws and Plans and Previous Agreements

A need for water can not be valid if the local land use planning authorizations do not allow the use. There is no evidence or analysis in the application file showing that the proposed use of water complies with the relevant land use planning laws and plans and agreements reached between ODFW and the City of Brookings during the urban growth boundary expansion process. This area is evidently an area that the District is also proposing to serve.

In the land use proceedings relating to the City's boundary expansion it was specifically determined that expanded growth within the urban growth boundary and associated water withdrawals were in conflict with the fish resources in the Chetco River. Exh. 8. To address those concerns restrictions and protective policies relating to water use adopted as part of the approval of the City's expanded UGB. Exh. 21, Exh. 22, Exh. 8, Exhibit 26: Excerpt of Land Conservation and Development Commission Proceeding of Brookings Remand (April 12, 2001): The City subsequently adopted resource protective amendments to its land use plan and an ordinance which limits its water use to 5.1 cfs when flows in the Chetco reach critical levels and contains curtailment measures.

The use proposed in the PFO is clearly not compatible with land use requirements. There are no conditions in the PFO to limit water use during low flow periods to protect the Chetco fishery resource and existing instream rights. The PFO does not even contain mention, much less an analysis of the impact the District's use will have on instream flows and fishery resources.

In addition, the use proposed in the PFO and the District's extension request are contrary to the agreement the City reached with ODFW in the land use proceedings relating to water service within the expanded urban growth boundary. Under this

agreement, the City agreed to limit total use of water from the Chetco River 5.1 cfs when flows in the Chetco are at or below 80 cfs and to institute mandatory curtailment measures.⁹ The City also agreed to install a measuring device at its point of diversion. To be consistent with land use and the agreement – the District's diversion must also be restricted to protect minimum flows for fish.

The District's requested extension and the extension as proposed in the PFO clearly violate and are not compatible with these and other provisions of the land use planning laws and the City agreement to ensure that water service to areas within the urban growth boundary will meet these fishery protection restrictions. WRD's action does not assure compliance with statewide planning goals or compatibility with local land use laws as required under OAR 690-05 and ORS 197 and ORS 536, the City of Brookings' Comprehensive Plan including ordinance 02-0-548 and Attachments which require protection of the fishery and water quality values of the Chetco River and Estuary. The agency has also failed to coordinate with other state agencies, such as ODFW and the Department of Land Conservation and Development on land use matters relating this water use as required under the rules and statutes. The extension must be denied.

7. The PFO is unlawful because the Permittee Has Not Demonstrated Diligent Development of the Permit.

Extensions of time can only be granted if good cause is shown for the extension. ORS 537.630. A critical element in the good cause determination is whether the permittee has been diligent in its development and will be diligent in any future development. ORS 537.260, 537.230, 539.010 and OAR 690-315. The law does not require unusual or extraordinary efforts, but efforts that are "usual and ordinary with men engaged in like enterprises who desire to speedily effect their designs." *In re Hood River*, 114 Or 112, 131, 227 P 1065(1924). The Department's review of a permittee's diligence is not limited to efforts made during the most recent extension period. The

⁹ It appears that the City's curtailment Ordinance No. 02-0-553 may also be inconsistent with the agreement. While the ordinance has some good provisions, it does not mandate curtailment when river flow is below 80 cfs. See Ordinance No. 02-0-553 at 2 whenever flow below 80 cfs "the following guideline for Levels of Curtailment may be implemented."

determination of diligence must be made in the context of the permittee's efforts over the life of the permit. The Commission has found that the "cumulative passage of time and overall progress of the (permittee) . . . to date is the only logical basis on which to determine whether the (permittee) is working diligently . . . As the ratio of time-to-inaction increases, so do the reasons to find a lack of diligence." Final Order In the Matter of the Cancellation of Permit No. 50957 and the Denial of the Request for Modification of Implementation Schedules at 15.

The PFO erred when it found that the District's past efforts constituted diligent development of the permit. There has been very little water used under this permit over the past 38 years. In addition, the development actions and investments cited in the PFO have been cited by the District as actions it took to also develop its 3 other permits. These actions also show development of water for a use of water for industrial and commercial use – a use not allowed under the permit. In addition, the District's most recent extension request also did not provide specific evidence of any additional development actions had occurring during the most recent extension period – from 1995 to 1999. This information is insufficient to find diligent development under this permit.

Even considering the District's actions related to the diversion structure (as opposed to requiring a showing of permit specific actions), these actions do not show diligent development under this permit. The capacity of the District's diversion facilities (6.1 to 7.1 cfs) is not sufficient to fully develop both this permit and the District's other two permits (31365 and 43837) which allow diversion of an additional 14 cfs from the Chetco.

In addition, the conflicting representations in the District's extension application call into question the District's claimed maximum diversion of 3.3 cfs by 2004. The District has not provided any clear evidence supporting its claim of maximum diversion. It also has not provided any evidence that it has the ability to actually beneficially use that amount of water. Beneficial use is the basis and measure of all rights to use water in Oregon. The one time diversion of 1.86 cfs and the speculative estimates of increased use by 2004 are not sufficient to constitute a showing of diligent development under this permit.

Information in the agency file also reveals that the District has not complied with the terms of the permit. Some of the actual use under the permit appears to have been outside the authorized domestic use. To show diligent development, the permittee must show development consistent with all the terms and conditions of the permit, including the authorized point of diversion. Use of water for a purpose other than that authorized under the permit does not constitute use of water under the right. *See e.g. Hannigan v. Hinton*, 195 Or App 345, 350 (2004).

The PFO also erred when it concluded that the District had shown an intent and ability to diligently develop the permit in the future. The City's future demand projects are based upon use of water on a place of use not authorized under the permit. The place of use contemplated by the permittee must be that of the permit and not some other place of use. *See e.g. Hannigan v. Hinton*, 195 Or Ap. 345, 351 (2004). Use of water on other lands is essentially waste and is not evidence of intent to diligently develop the permit. *Id* at 352. Clearly, the district's extension request does not show it has the intent, much less the ability to fully develop this permit within the proposed extension period.

For these reasons, the permittee has not shown diligent development of the permit and has not shown the ability or intent to diligently develop the permit in the future. The permit should not be extended.

8. The PFO is in Error Because the District has not Shown it can Complete Development within the Extension Period.

OAR 690-315-0080(1)(d) requires the Department to make a finding that the City can complete the project within the time period requested. The PFO proposes to extend the permit development deadlines to October of 2008. However, information in the record shows that full development of the right, for the uses and place of use authorized under the permit will not occur until 2020 at the earliest assuming an extremely high growth rate – and likely not until 2050. The District has not shown the either the intent or the ability to fully develop this permit within the proposed extension period. The extension must be denied.

9. The PFO is in Error Because the Permittee has not Demonstrated Good Faith in the Development of the Permit.

The agency must, in determining "good cause," make a determination as to the past and future good faith of the appropriator. ORS 537.630, 537.230, 539.010 and OAR 690-315. The measure of the "good faith of the appropriator" is a broad standard that logically incorporates the concept of the diligence of the permittee and the intent of the permittee to comply with terms and conditions of the permit.

The PFO erred when it concluded that the District's past and proposed actions demonstrated good faith development of the permit. Critical to the determination of whether good faith exists is whether the permittee intends to comply with existing permit conditions. The permit includes conditions specifying the authorized place of use and type of use. However, both the District's past and proposed use of water is outside the scope of the use authorized under the permit and it's projected use appears to be on lands not authorized under the permit.

If the extension is granted, the use proposed in the extension will result in violation of two of most fundamental terms of the permit, the use and place of use of water. The materials submitted by the permittee do not show good faith on the part of the permittee. The extension must be denied.

10. WRD has No Authority to Alter the Fundamental Terms of a Permit as Part of a Permit Extension.

The extension law allows an extension of the time period for development of a permit upon a showing of good cause. ORS 537.630, 537.230, 539.010, OAR 690-315. As part of the extension process WRD can condition the extension to ensure good cause continues to exist for the extension. See OAR 690-315-0050(5) (extension orders may include conditions to ensure future diligence, mitigate effects on competing demands, document the continued need for the permit). The law does not, however, give the agency the authority to expand or change any of the fundamental conditions of the permit such as place of use, points of diversion, or rate and duty of allowed use. The extension approval in the PFO is based on the permittee's use of water from a point of diversion and at a place of use not allowed under the permit. The approval basically amounts to a tacit modification of fundamental permit terms and is contrary to law. The extension must be denied.

11. The PFO is in Error Because it Determined the Extension Application to be Complete.

The District failed to provide evidence of compliance with conditions contained in the permit and previous extension and a summary of the plan and schedule for completion of development as required under OAR 690-315-0020(3).

12. The Extension should be denied because the permittee has not met the requirements of previous extensions.

The WRD is authorized to grant extensions upon a showing of good cause. ORS 537.630, 537.230, 539.010, OAR 690-315. Nothing in the extension statute allows the agency to delete previous conditions on development that were placed on the use under previous extensions. A previous extension granted by the WRD specifically required the district to submit a plan relating to water conservation and a plan/time table relating to obtaining a long-term water supply "before future extension requests will be approved." See Letter Order to District from WRD extending permit time limits to April 30, 1991 (August 26, 1992) on filed with the Department. The April extension order also required the District to prepare a plan/timetable of the steps it will pursue to obtain a long-term water supply by October 1, 1995.

These requirements are a term of the permit that must be complied with before approval of another extension. WRD has no authority to ignore or remove this requirement by subsequent order. The District's extension application does address, much less show compliance with these requirements and nothing in the SPFO addresses this requirement. Failure to comply with this condition of this previous extension requires the denial of this pending extension request. The District has not shown compliance with the terms of use and the extension must be denied.

13. The PFO is in Error Because it Does not Require Compliance with mandatory water use-reporting requirements.

The District, as a governmental entity, must meet the annual water use reporting requirements of ORS 537.099 and OAR 690-85-010. This law requires governmental entities that hold water rights to submit annual reports of water use to the Water

Resources Department. ORS 537.099(1). However, the District does not appear to be in compliance with the measurement standards in the annual water use-reporting program.

ORS 537.099(1) requires the District to submit annual water use reports showing the amount of water use. OAR 690-85-010(1) requires the District to submit a report that details the monthly water use "for each point of diversion." "Point of diversion" is defined as "the point at which water is appropriated from its source." OAR 690-85-008(11). The report must include the monthly volume of natural flow pumped or diverted "at each point of diversion listed on the water rights." OAR 690-85-010(2).

The District appears to have failed to meet the requirements of the law. The District does not appear to have flow meter at the point at which water is appropriated from the ground water. In addition, even if the District's measurements met the requirements of the law, they are a measure delivery of water for uses not authorized under the permit. Thus they do not meet the requirement in the reporting rules that the District measure use from the point of diversion listed on the water rights.

Adequate measurement is critically important in this watertight basin. The District's water use reporting appears not to meet the requirements of the law and the extension should be denied.

14. If the Extension were to be Approved (Which it Should Not) The PFO is in Error Because the Proposed Conditions are Inadequate.

The Department erred when it proposed approval of the extension for the reasons set forth above. If an extension were granted, which it should not be, the proposed condition in the PFO is utterly inadequate to ensure that good cause continues to exist for the extension. PFO at 9.

Any extension must be conditioned to ensure protection of the Chetco River fishery, water quality and recreation and the instream water rights for the stream system. The Department has a duty to undertake further investigation and make specific findings and imposed conditions that will protect these important public demands for water that are competing for Chetco River water. The Department must find that the extension, if it moves forward, will not diminish streamflows in critical months.

Any extension approval must include the following conditions:

- The extension period should be limited and should include check points every 5 years to ensure protection of competing demands, continued diligence in development of the permit and compliance with permit conditions including those relating to protection of river flows. These checkpoints should contain reporting requirements to ensure diligent development of the permit consistent with statewide policies mandating efficient use of water¹⁰ and management and control of the water resource¹¹.
- The use must be conditioned to require measurement and reporting of diversion using a method that will document the timing and rate of reduction Chetco River flows. Consistent with the ODFW/City agreement, the diversion should be telemetered and diversion information posted for public review.
- Diversion and use of water under this and other District permits shall be limited as follows: (a) Total diversion under the permits together is limited to the amount actually needed for growth to 2019. In addition the amount must include assumptions of increasing levels of conservation. The remaining amounts under the permits in excess of the 20-year demand must be cancelled. (b) The use is further limited as follows: For the months of July, August and September when river flows are at or below 100 cfs, the District shall institute voluntary conservation measures and when river flows are at or below 80 cfs, diversion under both the District and City's permits shall be no more than 5.1 cfs cumulatively and the District shall immediately initiate mandatory conservation measures. (c) For all other months, the total diversion under the District and City's permits can only exceed 5.1 cfs when flows in the Chetco are above the flows specified in Instream Water Right Certificate 59865 (and Table 1 of OAR 690-517-0020) and the District and City's increased diversion does not cause the flows in the river to drop to or below the flows specified in the instream right.
- Diversion and use of water under this permit and other District permits is conditioned upon the development and implementation of environmentally sensitive alternatives to water withdrawals from the Chetco River within 5 years of the permit extension. The development and implementation of these alternatives shall be done jointly with the City. The alternatives shall limit the District's conflicting use of Chetco River water to the extent it will not negatively impact the fish resource. The development of these alternatives shall consider use of water under the Districts and City's permits and rights are not included in the implementation of alternate water withdrawals must be cancelled.
- The District shall also develop a water conservation and supply plan that requires the District to reach a 90% efficiency level within 5 years and increasing

¹⁰ ORS 537.525(3), ORS 536.310(1), ORS 540.610(1), 537.460(2)(a) and OAR 690-410-060(1).

¹¹ ORS 536.220(2)(a).

efficiency in reasonable increments from then on, and contains future demand forecasts that assumes the District will reach the required levels of efficiency.

Without these and other conditions there is not "good cause" for the extension.

PROTESTANTS INTEREST

WaterWatch of Oregon

Water is a publicly owned resource. ORS 537.110. WaterWatch has a long-standing interest in decisions that affect this resource.

WaterWatch is a nonprofit, tax-exempt organization whose mission is to promote water policies and water allocation decisions in Oregon that provide for the quantity and quality of water necessary to support fish, wildlife, recreation, ecological values, public health and a sound state economy. WaterWatch's address is 213 SW Ash Suite 208, Portland, OR, 97204, contact person is Karen Russell, phone number 503-295-4039 ext 24, fax 503-295-2791 and email karen@waterwatch.org.

Since its inception WaterWatch has worked on water allocation issues both statewide and in Oregon's coastal basins. WaterWatch's efforts include, but are not limited to:

- Playing a key role in the drafting and passage of the Oregon Instream Water Rights Act;
- involved in proceedings to support the conversion of minimum flows to instream rights and the establishment on new instream rights statewide including instream rights on coastal streams;
- opposing new uses of water that would diminish flows and water quality needed for coastal fish and wildlife in the Chetco River Basin and other important coastal streams – for example, WaterWatch filed protests to the City of Brookings pending requests for extension of time to develop two Chetco River rights. WaterWatch also filed a protest in the early 1990's to the District's applications for water from the Chetco River for the Jack Creek Golf course (these permits were ultimately issued with resource protection conditions);
- petitioning the Water Resources Commission in the early 1990's to pass rules to ensure that flows needed for sensitive, threatened and endangered fish in Oregon's coastal rivers, streams and creeks (including the Chetco River) are protected from further appropriation;

- participating in the proceedings that led to the adoption of Division 33 rules relating to sensitive, threatened and endangered species in Oregon's coastal rivers and throughout the state;
- challenging permit amendments, water conservation plans and other requested water approvals for undeveloped permits on sensitive coastal streams – for example, WaterWatch, together with local citizens, challenged and/or commented on the City of Yachats permit amendment requests and water conservation plans, and challenged proposal by Lincoln City and a water district to develop undeveloped permits in the Drift Creek basin; and
- participating as a member of the Department-convened community water supply work group in an effort to ensure that continuing growth does not undermine water flows and quality needed in Oregon rivers for the fish and wildlife and other public values.

WaterWatch has dedicated significant resources toward protecting the public instream values of the Chetco River and other coastal streams. WaterWatch has members throughout the state who use and enjoy the instream resources of the Chetco River. WaterWatch members have boated the river, have enjoyed the wild and scenic values of the river system and the fishery the river system supports. WaterWatch's mission and its work make it qualified to represent the public's interest in protecting the instream values of the Chetco River system. The agency has, in the past, recognized that WaterWatch is qualified to represent this public interest. WaterWatch files this protest to protect its organizational interest, the interests of its members and the public interest that WaterWatch is uniquely qualified to represent. WaterWatch clearly has an interest in the resources that will be effected by the allocation of water proposed by this proceeding. WaterWatch's interests, the public interests it represents and the interests of its members will be adversely affected by the proposed extension of the District's permit.

WaterWatch represents its organizational interests, the interests of its members and the general public's interest in the water resources of the Chetco River and in the waters of the State of Oregon. The organizations past investment of staff resources and money on water use issues in the Chetco River Basin and/or other coastal streams, and on extension issues in the basin and municipal supply issues statewide, gives WaterWatch a direct and personal stake in the outcome of this proceeding. WaterWatch has an interest in ensuring that the permit extension will not (1) diminish streamflows needed for the fish

and wildlife resources in the creek and the instream water rights and minimum perennial streamflows that protect those resources, (2) exacerbate existing water quality problems in the creek, (3) allow inefficient or wasteful use of water, (4) result in speculation of water and (5) set bad precedent. WaterWatch also has an interest in ensuring that water allocation decisions for will ensure that environmentally sensitive sources (such as the Chetco River) will be protected from further development and that water conservation will be an important source of water for meeting future water supply needs. The proposed extension is will adversely affect or aggrieve those interests.

The proposed extension will allow water use to continue without first requiring the permittee to comply with specific conservation standards thereby perpetuating inefficient and potentially wasteful use of a river whose flows are critical for the survival of numerous anadromous fish species. The extension also allows use based upon water demands that are projected for a service area already covered by the City of Brookings making the projections speculative and unsupported. The extension will also allow the continued unfettered development of the Chetco River - an ecologically sensitive stream that provides critical habitat for threatened salmon and steelhead. The extension allows increased diversions that will exacerbate already existing water quality problems, further impair fish habitat - potentially to the point of extirpating the Chetco race of Chinook salmon. Unlimited withdrawal will result in lost recreational values - including fishing, boating and swimming. Further withdrawals in the lower river also pose significant threats to the outstanding resource values identified for the upstream federally designated wild and scenic waterway. These factors, together with the Department's utter failure to even consider, much less address, important public resource values that will be harmed by this development set a very bad precedent for the state. This proposed water allocation decision would have lasting adverse effects on efforts to protect and restore instream flows in the Chetco and other Oregon rivers.

Clearly WaterWatch's interests and the interests it represents will be directly and adversely affected if the permit extension is granted. Given these interests, WaterWatch is entitled to be a party in this matter and must be named as a party whether or not a contested case is scheduled.

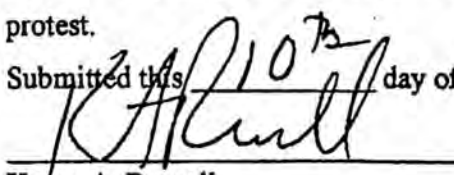
CITATION OF LEGAL AUTHORITY

We have tried, where possible to include reference to specific statutes, rules and cases in other sections of the brief. Other relevant laws generally are ORS 536, 537, 539, 540, 195, 196, 197 (land use planing) 468B (protection of water quality), 496 (protection of wildlife), 506 and implementing rules, OAR 690, Curry County and the City of Brookings Land Use Plans and ordinances, Oregon's Statewide Land Use Planning Goals and Objections, the Clean Water Act, the Endangered Species Act and case law relating to public trust and water law.

SUMMARY AND REQUEST FOR RELIEF

We are still living with the consequences of decisions made 100 years ago. For example, the bad water decisions of the last 100 years created the train wreck in the Klamath summer of 2001 and the massive fish kill of listed Klamath River fish in September of 2002. It would be tragic if our water decisions with regard to municipal water issues resulted in the same train wreck five, ten, 20, 50, 100 years down the road. Yet this PFO reflects business as usual – not balanced a vision for the future. For all the reasons set forth above, there is not good cause to extend the District's permit as proposed in the PFO. The extension should be denied. Failing that, WaterWatch requests a meeting with the District, the Department, ODFW and the City of Brookings to see if the issues raised in this protest can be addressed. Failing that, WaterWatch requests that the Department hold a contested case to address the issues raised in this protest.

Submitted this 10th day of December, 2004.


Karen A. Russell
WaterWatch of Oregon
213 SW Ash Suite 208
Portland, OR 97204
(503) 295-4039 ext 24
(503) 295-2791 (fax)
karen@waterwatch.org

CERTIFICATE OF SERVICE

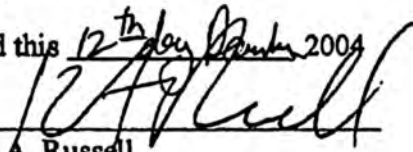
I certify that on 12/10/04 I filed this Protest and a \$250 check by hand delivery via messenger to the Water Resources Department at the address set forth below.

Dwight French
Water Rights Section
Water Resources Department
725 Summer Street NE Suite "A"
Salem, OR 97301-1271

I further certify that I served a copy of the said protest to the parties below by mailing said copies to the addresses set forth below, first-class mail, postage pre-paid, in the United States Mail from Portland, Oregon on 12/10/04.

Jackie Adams, Manager
Harbor Water People's Utility District
P.O. Box 2437
Harbor, OR 97415

Signed this 12th day of December 2004


Karen A. Russell

United States
Department of
Agriculture

Forest
Service

Siskiyou
National
Forest

Chetco Ranger District
555 Fifth Street
Brookings, Oregon 97415

Reply To: 2510 Watershed Planning
2540 Water Uses

Date: May 27, 1992

Oregon South Coast Fishermen
Attention: Ann Ramp
P.O. Box 2709
Harbor, OR 97415

Dear Ann:

I received your May 2 letter inquiring about several aspects of the water situation in the Chetco River watershed. A few of your questions cover subject matter outside the scope of U.S. Forest Service responsibility or knowledge. However, most of your questions bear directly or indirectly on subjects we have examined in the process of planning for administration of the portion of the Chetco River Federally designated as a Wild/Scenic/Recreational River.

The Federally designated section of the Chetco River ends at the Siskiyou National Forest boundary, just upstream from second bridge. However, we have examined issues relating to many of the questions you raise for the entire river to the mouth. That is necessary because the Chetco's anadromous fishery was identified as one of the principal river values for which the river was designated, and which we're obligated under the law to protect in our management plan.

We are currently in the final stages of completing the management plan for the Chetco. Many steps have been completed, including the Resource Assessment and a Water Quality/Quantity Report. Reference to these documents provides the following answers to most of your questions.

The watershed of the Chetco River covers approximately 350 square miles: about 270 (78%) are part of the Siskiyou National Forest; 15 (4%) are managed by Bureau of Land Management; and the rest are privately owned. The river is about 55 miles long and originates in the Klamath mountains, in the Kalmiopsis Wilderness Area. Topography varies from gentle coastal slopes to steep mountainous terrain, with peaks about 5,000 feet. The river falls at 300 feet per mile in the headwaters area; and at less than ten feet per mile near the mouth.

The watershed receives 100-160 inches of precipitation per year, mostly as rain. Some years see a small accumulation of snow. Streamflow is extremely variable from winter to summer and is relatively quickly responsive to basin precipitation. It is estimated that approximately 60% of the annual precipitation appears as runoff in this geological formation. U.S. Geological Survey (USGS) has maintained a water-stage recorder and crest-stage gauge near second bridge for many years. The last published period of record was the period from October, 1969 to October, 1987. Within that period, the river averaged a flow volume of 2,364 cubic feet/second (cfs). Extremes for the period were a maximum of 65,800 cfs and a minimum of 45 cfs.

There are no substantial diversions or withdrawals above the gauge. Water rights are on record for a total of about 0.08 cfs. There are more than 60 water rights on record for the area downstream from the National Forest boundary, for more than 52 cfs. In addition to these water rights, Oregon Department of Fish and Wildlife (ODFW) has instream water rights for minimum flows of 80 cfs at the low flow part of the year. The priority date on this latter right is 1964 above the North Fork confluence, and 1980 from North Fork to tidewater. ODFW has applied (11/8/90) for an increase in these instream minimum flows to 235 cfs for the low flow season. This application is pending.

It's clear that the 45 cfs recorded low flow is below the 80 cfs minimum flow ODFW says is needed for fish habitat. In fact, flows were below 80 cfs 25% of the time in August and just under 50% of the time in September during the period 1970-1987 (U.S.G.S. Open-File Report 90-118). It's important to note in this context that these low flows are upstream of the major withdrawals. It's also appropriate to consider that the drought cycle that began at the tail end of this data period has continued to the present.

These late summer, early fall low flows are of significant concern for the management of the anadromous fishery. Low flows worsen summer heating effects in the lower river. A joint assessment of the fish habitat conditions in the basin was completed by U.S. Forest Service and Oregon Department of Fish and Wildlife personnel in 1986. This effort identified high temperatures (70 to 75 degrees) in the lower mainstem as a major habitat limitation for salmonids, especially Chinook salmon.

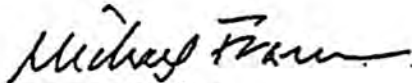
Sand and gravel in the lower Chetco has been moved downstream during higher flow periods. It enters the stream mostly as cobbles and boulders as a result of natural erosional processes in the headwaters and is broken down into finer gravels as a result of the rolling action moving downstream.

Your questions about wells and about an aquifer are somewhat related. The geological formation underlying much of the watershed, including all the western portion, is the Dothan Formation. This consists of graywacke sandstone, with interbedded siltstone and shale, occasional pillow lavas, volcanic breccia, chert and conglomerate. Water storage within the Dothan Formation is generally of very limited extent due to the faulted and sheared nature of the rocks. Relatively permeable rock types which could provide aquifers, are extremely limited in extent. Water may be stored within the numerous fractures in the bedrock. However, there is very low probability of finding a large contiguous body of stored water in this formation. The only way to be sure about the presence or absence of substantial stored water at any given point in this geological formation is to do controlled drilling studies.

A cursory examination of the county well records seems to support this prediction of a very limited aquifer. The only wells with any substantial yield appear to be those that tap underground stream flow from river gravels.

You asked about salt water intrusions. I have no information about salt water intrusions in the lower river beyond what I've read in the newspaper. I'd suggest checking with the City of Brookings for information on that issue.

I hope this information is complete enough to answer most of your questions. If there are points you'd like to discuss further or source material you'd like to examine, please don't hesitate to call me.



MICHAEL FRAZIER
District Ranger

cc: Tim Unterwegner, ODFW; Michael Mattick, Oregon State Water Resources Board

(2)

Chetco River Oregon



Designated WSRs
River Information
Rivers & Trails
WSR Council
Publications
Study Rivers
About WSRs
Guidelines
Site Index
Agencies
WSR Act
NRI

Siskiyou National Forest
Post Office Box 440
Grants Pass, Oregon 97528

Designated Reach: October 28, 1988. From its headwaters to the Siskiyou National Forest boundary.

Classification/Mileage: Wild – 25.5 miles; Scenic – 8.0 miles; Recreational – 11.0 miles; Total – 44.5 miles.

RECEIVED

DEC 10 2004

WATER RESOURCES DEPT
SALEM, OREGON

The River

The Omnibus Oregon Wild and Scenic Rivers Act of 1988 designated 44.5 miles of the Chetco River as wild and scenic, from its headwaters in the Kalmiopsis Wilderness down to the Siskiyou National Forest boundary just above Loeb State Park. The designated segment of the Chetco is located within Curry County in southwest Oregon on the Chetco Ranger District. The Chetco Wild and Scenic River is divided into three segments: a 27.5-mile wild segment from the headwaters down to Mislatah Creek; a 7.5-mile scenic segment from Mislatah Creek down to Eagle Creek; and a 9.5-mile recreational segment from Eagle Creek down to the Siskiyou National Forest boundary.

The Chetco heads in steep, deeply dissected, sparsely vegetated, mountainous terrain within the Kalmiopsis Wilderness. Over its 55.5 mile length, the Chetco drops from 3700 feet to sea-level as it empties into the Pacific Ocean between the towns of Brookings and Harbor, about 5 miles north of the California border. In the upper section, the river floor is fairly narrow and boulder-strewn with numerous falls and rapids. As the river leaves the wilderness, its character gradually changes. The country becomes less dissected, the river gradient gradually becomes less steep, the river bottom widens, and the surrounding hills become more densely forested. The river narrows in several areas, crossing through rock outcrops and leaving enormous boulders in the riverbed. The Chetco River Gorge, just below Steel Bridge, contains steep sides and unusual rock formations. Below this, the Chetco continues to broaden, and the gradient becomes less steep, with sand and gravel bars and raised river terraces becoming more common.



The *Chetco River Assessment*, which was completed in 1990, evaluated all the resources and values on the river. This report identified recreation, water quality, and the fishery as being

outstandingly remarkable values (ORVs). To qualify as an ORV, each value must be a unique, rare, or exemplary feature that is significant at a regional or national level.

Recreation. The Chetco River and its adjacent corridor offer a wide diversity of recreational opportunities. In winter, salmon and steelhead fishing and whitewater kayaking are the primary recreational uses. In summer, fishing, four-wheel driving, swimming, boating, camping, sightseeing and picnicking are the major attractions.

Water Quality. The Chetco's water quality was found to be an ORV based on its striking color and clarity, its ability to clear quickly following storm events, its contribution to both recreation and fisheries, and its contribution of exceptionally pure and clean water for the domestic water supplies of both Brookings and Harbor. The quantity of water in the Chetco varies greatly throughout the year. According to the U.S. Geological Survey, which maintains a water gauge at river mile 10.7 (Second Bridge), the Chetco's average discharge over the 18 year period from 1969 to 1987 was 2,364 cubic feet per second (cfs). The maximum discharge during the period of record was 65,800 cfs on January 16, 1971. The minimum discharge was 45 cfs on October 21-23, 1974. During the flood of December 22, 1964, which was before the official period of record, the level of the river reached an extreme gauge reading of 32.25 feet, and the discharge was 85,400 cfs.

Fisheries. The Chetco River fishery, typical of Pacific coastal systems, is dominated by trout and salmon. There are important populations of anadromous winter steelhead, fall chinook salmon, and sea-run cutthroat trout. Coho and chum salmon are occasionally observed. Resident cutthroat and rainbow trout are abundant in upper stream reaches. Native populations of fall chinook and winter steelhead are supplemented with hatchery fish. The Chetco provides excellent spawning and rearing habitat and has some of the highest salmonid smolt returns of any coastal stream in Oregon. Pacific lamprey, three-spined stickleback, and assorted sculpin are also known to inhabit this system.

The average annual precipitation along the Chetco's upper reaches is about 120 inches, decreasing to an average of 80 inches toward the coast. Most of the precipitation falls between the months of October and June, with a portion of that falling in the form of snow, primarily in the higher reaches.

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Recreation Opportunities

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Primary transportation routes within the river corridor are the North Bank Chetco River Road (#1376), the South Bank River Road (#1205), and associated spur roads. Recreationists can access the recreational and scenic river segments and launch boats in several locations, including Miller, Nook, Redwood riverbars; upper and lower South Fork Camps; the Low-water Bridge Site; Forest Road #1917-067; and the dispersed campsite at Steel Bridge. Various trails access the river, both maintained and unmaintained. Maintained trails include the Chetco Gorge Trail (#1112) in the recreational segment and the Tincup Trail (#1117) in the scenic segment. Access to the wild segment can be accomplished by trail within the Kalmiopsis Wilderness. The Chetco River at the Slide Creek confluence is accessible from the eastside of the wilderness via the Upper Chetco Trail (#1102), southwest of Chetco Pass. The Taggart's Bar area of the Chetco can be accessed by a combination of the Johnson Butte (#1110) and Upper Chetco (#1102) trails. These trails are listed as 'most difficult' and are open to hiking, riding and packstock. For basic trail information and directions to the trailheads, please refer to the Trail Recreation Opportunity Guide which is available from the Chetco Ranger District. Or visit the Recreation Opportunities section of the Siskiyou National Forest Web Page.

Fishing and Boating. Permits are required to float the Chetco for all users year round. The primary fishing season for steelhead and salmon is sometime between November and March. Free self-issuing permits are available at a station along the North Bank Chetco River Road (#1376). Commercial outfitting for fishing has been established by 40 guides, and all available permits have been issued at this time. Non-commercial use is not limited but must be permitted. Motorized boat use is not allowed on any river segment. Off-highway vehicle crossings of the river are prohibited.

Whitewater boating on the Chetco is restricted by its limited access, high use during the fishing season, and availability of other good boating opportunities in the area. A very limited number of kayakers have floated through the wild segment of the Chetco during high-flow conditions. Rapids are class III and below during the summer months during average flows. During the winter months rapid class is higher depending upon flow conditions. Summer floating during low water conditions has become an increasingly popular river activity on all river segments. A commercial outfitter/guide service on wild, scenic and recreation segments, during these low flow conditions, will be in operation sometime during the 1997 season.

Camping. Day use of river bars and boat launch sites is free. Fees are required for overnight use (between the hours of 8 pm and 8 am) at Nook and Redwood Riverbars (\$3.00 fee) and the Little Redwood Campground (\$6.00 fee). A camping fee is also required at Loeb State Park located below the Siskiyou National Forest boundary.

River Ethics. When camping on remote sites without facilities, use existing fire-rings. If a fire-ring is not present, contain your fire using a fire pan. Pack out all garbage and unburned fire residue. Whenever possible, if a toilet facility is not available, pack out human fecal waste using a wilderness toilet system designed to meet state requirements (no use of plastic bags and provide for discharge into a recreational vehicle dump site). If you don't have a satisfactory pack-out toilet, bury the waste above the high-water mark, in mineral soil (not sand), 6"- 8" deep, above the high water mark.

Wilderness Use. Permits are not required for the Kalmiopsis Wilderness (although a permit must be obtained for floating the Chetco River. The Forest Service appreciates your filling out our voluntary registration cards at the trailheads. Wilderness and wild and scenic river corridors are sensitive environments which require the practice of the best Leave No Trace ethics in minimizing impacts while still enjoying these natural areas. Information about the Leave No Trace program is available from the Forest Service, at the Leave No Trace Home Page, or by calling 1-800-332-4100.

In addition, please follow these **wilderness restrictions**:

Maximum group size for overnight use is 12 persons; the maximum number of stock animals per group is 9 saddle or pack animals.

Possession or use of motorized vehicles or equipment is prohibited.

All wheeled mechanisms, including bicycles, wagons, carts, and wheelbarrows are prohibited (wheelchairs excepted).

Use only "processed" or pelletized feed for stock animals. Hay or unprocessed (viable) grain is not permitted.

For fires, do not use wood from live or dead standing trees or brush. Firewood should consist of only small dead and down material.

EXHIBIT 2
PAGE 3 OF 4

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For More Information

Siskiyou National Forest
Post Office Box 440
Grants Pass, Oregon 97526
E-mail: redyer@fs.fed.us

- Siskiyou National Forest
- Wild and Scenic Rogue River (Siskiyou National Forest)
- Wild and Scenic Illinois River (Siskiyou National Forest)
- Fishing Information Center (Oregon Department of Fish and Wildlife)
- Weekly Fishing Outlook (Oregon Department of Fish and Wildlife)
- Leave No Trace Program
- Wilderness Information Network

- To print this page, set your printer to landscape.
- This web site uses pop-up windows - no advertising.
- Last Updated: Friday, 22-Nov-02 12:43:05
<http://www.nps.gov/rivers/wsr-chetco.html>

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EXHIBIT 2
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3
OF 5

South Coast Basin

SUMMER
(July - September)

Flow Restoration Priorities for Recovery of Salmonids in Oregon

The Oregon Plan
Streamflow Restoration Priorities



Location map



Flow Restoration Needs
 Not ranked
 Low
 Moderate
 High
 Highest



Flow Restoration Opportunities
 Not ranked
 Poor
 Fair
 Good
 Very Good



State Flow Restoration Priorities
 Not prioritized
 Not a priority
 Priority
 Current resources priority

10 0 10 20 30 Miles

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EXHIBIT 3
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South Coast Basin

SPRING
(April - June)

Flow Restoration Priorities for Recovery of
Anadromous Salmonids in Coastal Basins

The Oregon Plan

Streamflow Restoration Priorities
Measure IV.A.8



Location Map



Flow Restoration Needs

- Low (1)
- Moderate (2)
- High (3)
- Highest (4)



Flow Restoration Optimism

- Poor (1)
- Fair (2)
- Good (3)
- Very Good (4)



State Flow Restoration Priorities

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SALEM, OREGON

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PAGE 3 OF 5

10 0 10 20 Miles



South Coast Basin

SUMMER
(July - September)

Flow Restoration Priorities for Recovery of
Anadromous Salmonids in Coastal Basins

The Oregon Plan

Streamflow Restoration Priorities
Measure IV.A.8



Portland, OR
June 1998



Portland, OR
June 1998

Location Map



Flow Restoration Needs

- Low (1)
- Moderate (2)
- High (3)
- Highest (4)



Flow Restoration Optimism

- Poor (1)
- Fair (2)
- Good (3)
- Very Good (4)



State Flow Restoration Priorities

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SALEM OREGON

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PAGE 4 OF 5

10 0 10 20 Miles



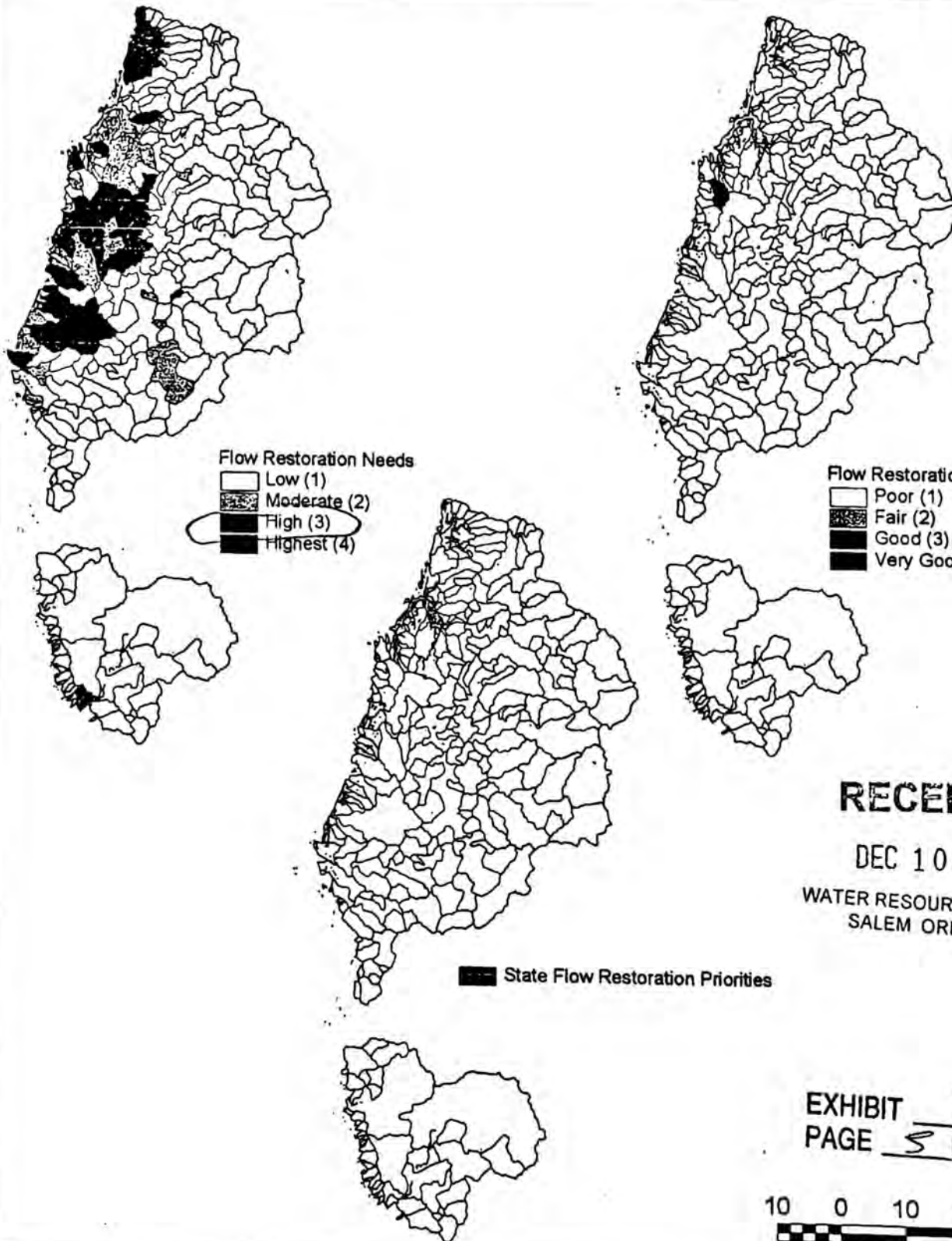
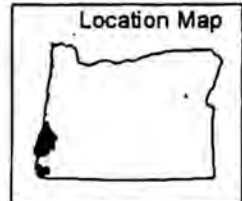
South Coast Basin

FALL
(October - November)

Flow Restoration Priorities for Recovery of
Anadromous Salmonids in Coastal Basins

The Oregon Plan

Streamflow Restoration Priorities
Measure IV.A.8



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10 0 10 20 Miles



United States
Department of
Agriculture

Forest
Service

Siskiyou
National
Forest

Chetco Ranger District
555 Fifth Street
Brookings, Oregon 97415

Reply To: 2510 Watershed Planning
2540 Water Uses

Date: June 22, 1992

City of Brookings
Mayor and City Council
City Hall
898 Elk Drive
Brookings, OR 97415

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SALEM, OREGON

I'm enclosing for your attention letters I've written to South Coast Fishermen and to the Curry County Commissioners concerning water uses on the Chetco River in general and, more specifically, your golf course proposal. The essence of these letters is my concern that minimum streamflows be maintained in the Chetco River to ensure that anadromous fisheries are not jeopardized.

It's important that you understand why the Siskiyou National Forest is concerned in this matter and why the concern is surfacing at this time. You'll remember that the Chetco River was federally designated as a Wild and Scenic River by the Oregon Omnibus Wild and Scenic Rivers Act of 1988. The Siskiyou National Forest is directed to prepare a management plan for the river to protect the values for which it was designated and other associated river values. That management plan is nearing completion now.

Anadromous fisheries and water quality were identified in the Act as the values for which the Chetco was designated. Planning for protection of fishery values required a comprehensive look at limiting factors in the stream environment. Only recently has it become clear that perhaps one of the most significant threats to the anadromous fishery is downstream from the National Forest, below the Wild and Scenic sections of the river. That is the threat to smolt survival as the fish migrate to the lower river in late summer/early fall and find low water and high temperature. Based on inferences from available streamflow data and observations from fishery management professionals, the Chetco anadromous fish runs (especially Chinook salmon) are already being significantly affected. Any further withdrawals during the low flow period can only increase those effects.

This realization has cast new light on prospects for growth and development dependent on Chetco River water. It seems clear that we need a comprehensive, long-term evaluation of water supply and demand before making further commitments of water during the low-flow period. To help accomplish that task, I could offer our fishery management and hydrology professionals to help in a partnership among City and County Government, Oregon Department of Fish and Wildlife, and the State Water Resources Department.

EXHIBIT 4
PAGE 1 OF 2

In the meantime, I have a concern about the pending commitments on the golf course project. The current plan does not guarantee adequate irrigation water supplies without using river water during the low streamflow period. There is a very low probability of finding substantial water by drilling deep wells. And a reservoir of the size currently proposed would not be adequate to irrigate even five acres for a period of three or more months. I must conclude that if the proposal were implemented as currently planned, it is inevitable that the remaining water would have to come from either Brookings or Harbor's municipal water system. I urge you to weigh this issue carefully as you consider going forth with this project as it is currently proposed. I am optimistic that plans can be amended to provide for adequate water without impacting the fishery.

I appreciate the difficult position you find yourselves in as you try to balance the need for a stimulus to the local economy with appropriate concern for resource protection. The Forest Service mission, too, has both resource protection and economic diversification/stabilization components. This latter mission has been given special emphasis by Congress in the last few years as we've seen many communities like Brookings impacted by reductions in timber sale programs and other commodity uses. We have been involved in a number of projects regionally and locally to assist local communities with economic diversification. At the same time, our direction from the Endangered Species Act and, in this case, the Wild and Scenic Rivers Act, is clearly to preserve conditions necessary for survival of species or significant races or populations of fish and wildlife.

Please call if I could help clarify these issues or provide additional information.



MICHAEL FRAZIER
District Ranger

cc: Tim Unterwegner, ODFW; Michael Mattick, Oregon State Water Resources Board; Ann Ramp, South Coast Fishermen; Curry County Commissioners.

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PAGE 2 OF 2

Oregon

June 8, 1995

John Bischoff
Planning Director
City of Brookings
898 Elk Drive
Brookings, OR 97415



DEPARTMENT OF
FISH AND
WILDLIFE

HABITAT
CONSERVATION
DIVISION

RE: City of Brookings Urban Growth Boundary Amendment

Dear Mr. Bischoff:

You have asked the Department to clarify its concerns with the proposed Brookings UGB as it relates to the effects of increased water withdrawal on sensitive anadromous fish species in the Chetco River.

The Department of Fish and Wildlife applied for in-stream water rights for the Chetco River by month. Our request was based on optimum flow calculations using the Oregon Method for calculating flows (Determining Minimum Flow Requirements for Fish, ODFW Report, January 20, 1984). The Water Resources Department completed a technical review of the application and proposed to reduce the amounts of the in-stream rights in all months (see attached technical review). The technical review report identifies by month the optimum flow under the Oregon Method which was requested by the Department, the average flow of the river, and the minimum flow from the Oregon Method. WRD's conclusion in its technical review was to issue in-stream water rights which were consistent with the minimum Oregon method flows except for October where the average flow was selected.

As the WRD report indicates, there is not a water availability problem most of the year. However, in July, August, September and October, there is. In September for example, the average flow is 101 cfs. The ODFW minimum flow is 100 cfs. It is clear that if any additional water is removed from the Chetco during these critical months, it will exacerbate the problem of inadequate flow in the Chetco for both rearing of juvenile fish and passage of adults in the majority of years. Juvenile chinook salmon have an extended estuary rearing requirement, spending up to two months

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2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-6967

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Dave Bischoff
June 8, 1995
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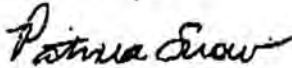
in the estuary before emigrating to the ocean. River flows below the identified minimum flow in July and August will have an impact on the rearing potential of the estuary for fall chinook salmon. Low flows in September and October can restrict adult fish passage, which may also impact chinook production in the Chetco River.

The City of Brookings and Harbor Water Public Utility District (PUD) have water rights for 30.5 cfs. The city's UGB expansion findings indicate that peak water demand in 1993 was approximately 3.1 million gallons per day or 4.5 cfs. The city's findings also indicate that peak demand would approximately double based on the 2008 population projection. This would indicate a peak water demand of approximately 6 million gallons per day or 9 cfs. If all of this water were to come from the Chetco River during low flow periods, it would exacerbate the existing low flow problem for fish at a critical time for both juvenile rearing and fish passage.

We would like to work with the city and county to identify alternative water storage measures to supply water during the critical low flow periods. We recommend that the city resolve the water supply issue before the UGB is amended. Our understanding is that UGBs are established to provide an area where orderly supply of services can and will occur. Until the city's water supply issue is resolved, we do not believe it is possible to establish this.

Thank you for the opportunity to clarify our position on this issue. Please feel free to contact me if you have any questions.

Sincerely,



Patricia Snow
Land Use Coordinator
Habitat Conservation Division

Attachment

c Jim Sitzman; Jim Hinman, DLCD
Gail McEwen; Russ Stauff, ODFW
Mary Kyle McCurdy, 1,000 Friends of Oregon
Chuck Nordstrom, Curry County Planning Department

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EXHIBIT 5
PAGE 2 OF 2

Endangered Species Act Status of West Coast Salmon & Steelhead

Updated: May 2, 2003

Pink Salmon	Listed: None Not Warranted: 1) Even-year ESU (10/95) 2) Odd-year ESU (10/95)	
Coho Salmon	Listed: 1) Central CA ESU (T - 10/95) 2) Southern OR/Northern CA Coastal ESU (T - 5/97) 3) OR Coastal ESU (T - 8/98) Candidates: 1) Puget Sound/Strait of Georgia ESU (7/95) 2) Lower Columbia River/Southwest WA ESU (7/95) Not Warranted: 1) Olympic Peninsula ESU (7/95)	* Re-assess ESUs listing status * Re-assess ESUs listing status * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status
Chinook Salmon	Listed: 1) Sacramento River Winter-run ESU (E - 1/94) 2) Snake River Fall-run ESU (T - 4/92) 3) Snake River Spring/Summer-run ESU (T - 4/92) 4) Puget Sound ESU (T - 3/96) 5) Lower Columbia River ESU (T - 3/96) 6) Upper Willamette River ESU (T - 3/96) 7) Upper Columbia River Spring-run ESU (E - 3/99) 8) Central Valley Spring-run ESU (T - 8/99) 9) CA Coastal ESU (T - 8/99) Candidates: 1) Central Valley Fall and Lake Fall-run ESU (8/99) Not Warranted: 1) Upper Klamath-Trinity Rivers ESU (3/98) 2) OR Coastal ESU (3/98) 3) WA Coastal ESU (3/98) 4) Mid-Columbia River Spring-run ESU (3/98) 5) Upper Columbia River Summer/Fall-run ESU (3/98) 6) Southern OR and Northern CA Coastal ESU (8/99) 7) Deschutes River Summer/Fall-run ESU (8/99)	* Re-assess ESUs listing status * Re-assess ESUs listing status * Re-assess ESUs listing status * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat
Chum Salmon	Listed: 1) Hood Canal Summer-run ESU (T - 3/99) 2) Columbia River ESU (T - 3/97) Not Warranted: 1) Puget Sound/Strait of Georgia ESU (3/96) 2) Pacific Coast ESU (3/96)	* Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat
Sockeye Salmon	Listed: 1) Snake River ESU (E - 11/91) 2) Oyster Lake ESU (T - 3/95) Not Warranted: 1) Baker River ESU (3/96) 2) Okanogan River ESU (3/96) 3) Lake Wenatchee ESU (3/96) 4) Okanogan Lake ESU (3/96) 5) Lake Pleasant ESU (3/96)	* Re-assess ESUs listing status * Re-assess ESUs listing status & critical habitat
Steelhead	Listed: 1) Southern CA ESU (E - 8/97) 2) South-Central CA Coastal ESU (T - 8/97) 3) Central CA Coastal ESU (T - 8/97) 4) Upper Columbia River ESU (E - 8/97) 5) Snake River Basin ESU (T - 8/97) 6) Lower Columbia River ESU (T - 3/96) 7) CA Central Valley ESU (T - 3/98) 8) Upper Willamette ESU (T - 3/96) 9) Middle Columbia River ESU (T - 3/96) 10) Northern CA ESU (T - 8/99) Candidates: 1) OR Coastal ESU (3/96) Not Warranted: 1) Southwest WA ESU (8/98) 2) Olympic Peninsula ESU (8/98) 3) Puget Sound ESU (8/98) 4) Klamath Mountains Province ESU (4/01)	* Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat * Re-assess ESUs listing status & critical habitat

* An Evolutionarily Significant Unit or "ESU" is a distinctive group of Pacific salmon or steelhead.

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SALEM, OREGON

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OREGON DEPARTMENT OF FISH AND WILDLIFE
SENSITIVE SPECIES
December 1997

Explanation: It is the State of Oregon's policy "to prevent the serious depletion of any indigenous species" (ORS 496.012). The Oregon Endangered Species Rules (OAR 635-100-100 to 635-100-130) help carry out this policy. In accordance with these rules, species can be classified as "threatened" or "endangered," and steps taken to recover them.

To carry out the policy expressed in ORS 496.012 (1) and for other reasons - biological, ethical and economic - a "sensitive" species classification was created under Oregon's Sensitive Species Rule (OAR 635-100-040) to help prevent species from qualifying for listing as "threatened" or "endangered."

Sensitive species constitute those naturally-reproducing native animals which may become threatened or endangered throughout all or any significant portion of their range in Oregon. Factors to consider in listing species as sensitive are the same as those in the state Endangered Species Rules including: the potential for natural reproductive failure because of limited population numbers, disease, predation or other natural or man-made factors; imminent or active deterioration of range or primary habitat; overutilization; and inadequate existing state or federal regulations or programs for species or habitat protection. Man-made factors include direct reproductive losses from contaminants and introductions of exotic species that threaten native species through hybridization, introductions of parasites and/or other disease, predation or habitat alteration or encroachment.

The factors named above have been implicated in the extinction or extirpation of several species in the state and are the cause for others having to be listed as threatened or endangered. Sensitive species designations are for the express purpose of encouraging actions that will prevent additional species from having to be listed as threatened or endangered, and to encourage actions that will improve their status.

The Oregon Department of Fish and Wildlife maintains a list of sensitive species which is updated biennially. This list of sensitive species

constitutes an early warning system for land managers and the public. In most cases, implementation of proper protective measures would prevent these species from qualifying for threatened or endangered status. In other cases the species are presently stable or secure because adequate protective measures are in place, but may become vulnerable if changes occur. Some peripheral or otherwise rare species present a potential for threatened or endangered status due to low population numbers because of limited natural habitat. Some of the rare species occur in Oregon as disjunct populations or groups which are isolated from the main range(s) of the species outside the state.

The Oregon Endangered Species Rules do not define what constitutes a "significant portion" of a species' range in the state. It is the policy of the Oregon Department of Fish and Wildlife to generally consider amphibians, reptiles, birds and mammals by the physiographic provinces described in the *Wildlife Diversity Plan*. A map showing the physiographic provinces is enclosed. Fish populations are considered on the basis of major watersheds that contain genetically distinct groups commonly known as stocks. Species that are otherwise doing well within most parts of their range within the state are not considered for listing on a physiographic or watershed basis unless there is historical evidence that they were present in significant numbers in the physiographic province(s) or watershed(s) under consideration. In general listing of species on a watershed or physiographic basis is a judgment call. For example, in the case of a species which occurs statewide, listing within only one of the ten provinces has been avoided provided the species remains secure in the remaining nine provinces.

With a few exceptions, only those which reproduce in the state are considered. Exceptions include species which are at risk throughout their range. Breeding populations of migratory birds are considered separate from migrant or wintering populations. Consequently only breeding populations are listed for some birds which otherwise occur as common migrants or winter residents. The list does not include numerous

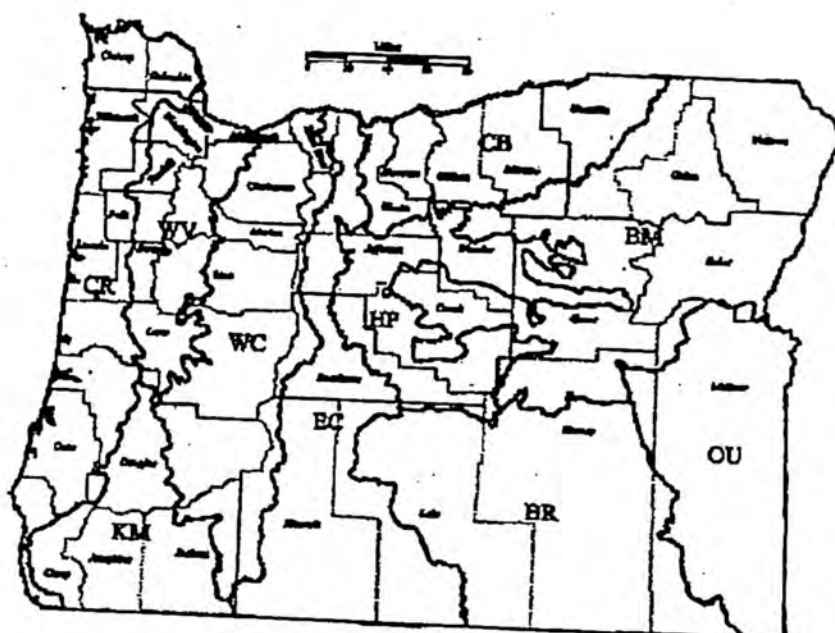
December 1997

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Physiographic Provinces in Oregon



Source: Oregon Natural Heritage Program. 1995. Rare, Threatened and Endangered Plants and Animals of Oregon. Oregon Natural Heritage Program, Portland, Oregon. 84 pp

Occurrences for each species are keyed to the map above which divides the state into ten distinct biomes based on geologic and vegetative patterns. It is modified from the 1973 publication *Natural Vegetation of Oregon and Washington* by Franklin and Dyrness. Versions of it are used in the *Oregon Nongame Plan* (1986), *Oregon Natural Heritage Plan* (1991), *Sensitive Vertebrates of Oregon* (1992), *Species At Risk* (1996), and the *Oregon Wildlife Diversity Plan* (1993).

CR	Coast Range
KM	Klamath Mountains (also known as Siskiyou Mountains Province)
WV	Willamette Valley
WC	West Cascades
EC	East Cascades
CB	Columbia Basin
HP	High Plains
BM	Blue Mountains (also known as the Ochoco, Blue and Wallows Mountains Province)
B&R	Basin and Range
OU	Owyhee Uplands

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SALEM OREGON



OREGON
SENSITIVE SPECIES LIST
By Categories

(CRITICAL-CONTINUED)

Pygmy Nuthatch
Yellow-breasted Chat
(Oregon) Vesper Sparrow
Sage Sparrow
Western Meadowlark

Sitta pygmaea
Icteria virens
Pooecetes gramineus affinis
Amphispiza belli
Sturnella neglecta

Blue Mountains
Willamette Valley
Willamette Valley and Klamath Mountains
Columbia Basin
Willamette Valley

MAMMALS

Townsend's Big-eared Bat
Washington Ground Squirrel
Fisher

Plecotus townsendii
Spermophilus washingtoni
Martes pennanti

-VULNERABLE-

FISHES

Pacific Lamprey
Alford Chub
Catlow Tui Chub
Oregon Lakes Tui Chub
Umpqua Chub
Coastal Cutthroat Trout
Westslope Cutthroat Trout
Inland Steelhead/Redband Trout
Coastal Steelhead
Margined Sculpin

Lampetra tridentata
Gila alvordensis
Gila bicolor ssp.
Gila bicolor oregonensis
Oregonichthys kalawatsesi
Oncorhynchus clarki clarki
Oncorhynchus clarki lewisii
Oncorhynchus mykiss ssp.
Oncorhynchus mykiss ssp.
Cottus marginatus

Coast-wide below natural impassable barriers

All groups east of Cascades
Coast

AMPHIBIANS

Cascade Scorp Salamander
Southern Scorp Salamander
Del Norte Salamander
Larch Mountain Salamander
Siskiyou Mountains Salamander
Tailed Frog
Western Toad
Northern Red-legged Frog
Foothill Yellow-legged Frog
Cascades Frog

Rhyacotriton cascades
Rhyacotriton variegatus
Plethodon elongatus
Plethodon larrelli
Plethodon storei
Ascaphus truei
Bufo boreas
Rana aurora
Rana boylei
Rana cascades

Willamette Valley

REPTILES

Mohave Black-Collared Lizard
Sagebrush Lizard
Desert Horned Lizard
Sharptail Snake
Common Kingsnake
California Mountain Kingsnake
Western Rattlesnake

Crotaphytus insularis (bicoloratus)
Sceloporus graciosus
Phrynosoma platyrhinos
Coronia tenella
Lampropeltis getulus
Lampropeltis zonata
Crotalus viridis

Columbia Basin

Willamette Valley

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5

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SALEM OREGON



OREGON
SENSITIVE SPECIES LIST
By Categories

(PERIPHERAL OR NATURALLY RARE CONTINUED)

REPTILES

Western Ground Snake

Sonora semiaustralis

BIRDS

Horned Grebe

Least Bittern

Franklin's Gull

Black Swift

Black-throated Sparrow

Grasshopper Sparrow

Tricolored Blackbird

Black Rosy Finch

Podiceps auritus

Exobrychus exilis

Larus pipitcan

Cypseloides niger

Amphispiza bilineata

Ammodramus sarnianus

Agelaius tricolor

Leucosticte atrata

Breeding Population

Assumed Breeding Population

Willamette Valley

Basin and Range

-UNDETERMINED STATUS-

AMPHIBIANS

Blotched Tiger Salamander

Cope's Giant Salamander

Clouded Salamander

Oregon Slender Salamander

Northern Red-legged Frog

Ambystoma tigrinum melanostictum

Dicamptodon copei

Aneides ferreus

Batrachoseps wrighti

Rana aurora

Coast Range, West Cascades, Klamath Mountains

Columbia Spotted Frog

Rana hateriventris

REPTILES

Longnose Leopard Lizard

Gambelia wislizenii

BIRDS

Harlequin Duck

Barrow's Goldeneye

Bufflehead

Spruce Grouse

Mountain Quail

Boreal Owl

Williamson's Sapsucker

Willow Flycatcher

Histrionicus histrionicus

Bucephala islandica

Bucephala albeola

Dendragapus canadensis

Oreortyx pictus

Aegolius funereus

Sphyrapicus thyroideus

Empidonax adustus

Breeding Population

Breeding Population

Breeding Population

Blue Mountains, East Cascades, High Plains

East Cascades, Columbia Basin, High Plains,
Blue Mtns, Basin and Range, Owyhee
Uplands

Bank Swallow

Riparia riparia

MAMMALS

Silver-haired Bat

Western Small-footed Myotis

Long-eared Myotis

Long-legged Myotis

Lasionycteris noctivagans

Myotis ciliolabrum

Myotis evotis

Myotis volans

EXHIBIT

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WATER RESOURCES DEPT
SALEM OREGON



OREGON SENSITIVE SPECIES LIST By Categories

Not Presently Sensitive

Numbers of Sensitive Species Populations and Stocks Listed	
CRITICAL	
Fishes	13
Amphibians	3
Reptiles	2
Birds	21
Mammals	3
Total	42
VULNERABLE	
Fishes	10
Amphibians	10
Reptiles	7
Birds	16
Mammals	6
Total	49
PERIPHERAL OR NATURALLY RARE	
Fishes	8
Amphibians	3
Reptiles	1
Birds	8
Mammals	0
Total	20
UNDETERMINED STATUS	
Fishes	0
Amphibians	6
Reptiles	1
Birds	9
Mammals	9
Total	25
TOTAL SENSITIVE LISTINGS	136

A number of species that are sensitive to human disturbances, especially around nesting areas, are not designated as sensitive species because the conditions of their populations are presently satisfactory, due in part to protective measures in effect. Examples of this are the osprey and various colonial nesting species, such as the great blue heron. So long as protective measures are in place, and these species are thriving, they do not meet the criteria for designation as sensitive species although they need to be carefully monitored.

The following are recent immigrants with no long-term historical status in the state as breeding species. However, there is evidence that these species may have become established on a permanent basis as breeding species. With confirmation of this, these could become sensitive species.

- Cattle Egret *Bubulcus ibis*
- Black-shouldered Kite *Elanus caeruleus*
- Semipalmated Plover *Charadrius semipalmatus*
- Greater Yellowlegs *Tringa melanoleuca*
- Solitary Sandpiper *T. solitaria*
- Barred Owl *Strix varia*
- Broad-tailed Hummingbird *Selasphorus platycercus*
- Least Flycatcher *Empidonax minimus*
- Northern Waterthrush *Seiurus noveboracensis*
- Black-chinned Sparrow *Spizella atrogularis*
- Blue-gray Gnatcatcher *Polioptila caerulea*
- N. Mockingbird *Mimus polyglottos*
- Red-shouldered Hawk *Buteo lineatus*

The following species are of interest because their populations have been depleted in the Willamette Valley portion of the Western Interior Valley Province. Since they are rather widespread common species elsewhere in the state, they were not included on the sensitive species list. However, the Oregon Department of Fish and Wildlife recognizes that these formerly common species in the Willamette Valley have become uncommon or rare in the Valley.

- Yellow Warbler *Dendroica petechia*
- Black-tailed Jackrabbit *Lepus californicus*

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WATER RESOURCES DEPT
SALEM OREGON

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PAGE 9 OF 10

ECONOMIC, SOCIAL, ENVIRONMENTAL, AND ENERGY
ANALYSIS OF WATER WITHDRAWAL FROM THE CHETCO RIVER 8

As a result of the city's recent urban growth boundary expansion, it was determined that the city would need to pump 5.1cfs of water on a daily basis to serve the projected buildout and population growth by the year 2015. The question has been raised as to what impact pumping 5.1cfs of water from the river on a daily basis will have on the river's fishery, primarily on salmonoid species. As a result, the Oregon Land Conservation and Development Commission has required the city to complete an Economic, Social, Environmental, and Energy (ESEE) analysis of water withdrawal from the Chetco River and provide mitigation for any impact identified. It should be noted that the requirement for an ESEE analysis does not require the collection of data beyond what currently exists. The Oregon Department of Fish and Wildlife (ODFW) currently has an in-stream water right of 80cfs on the Chetco River. The city has water rights in the amount of 20cfs that predates the ODFW in-stream right.

The following is a brief description of the Chetco River, the fishery and the role it plays in the economy of the city and community:

The Chetco River basin is 347 square miles in size and 83% of the basin is in federal ownership. Anadromous salmonid habitat in the Chetco is generally in very good shape and is at low risk of degradation, with the exception of the estuary. The Chetco estuary has been heavily impacted by development. In the early 1970's jetties were constructed to allow safe passage to the ocean and most of the available wetland areas were either filled or dredged to accommodate a commercial and recreational boat basin. Both the city of Brookings and the unincorporated municipality of Harbor take their water from the river immediately upstream of the estuary.

The Chetco River is very productive for fall Chinook salmon. The Oregon Department of Fish and Wildlife (ODFW) recognizes one population of Chinook salmon in the basin, distributed throughout the basin. Coastal fall Chinook juveniles in Oregon generally, and in the Chetco specifically, are very dependent upon the freshwater portion of the estuary (Nicholas, J.W., and D.G. Hankin. 1988. Chinook salmon populations in Oregon coastal river basins. Reimers, P.E. 1970. Growth and abundance of juvenile fall Chinook salmon in Sixes River estuary. Any significant reduction in the amount of freshwater entering the estuary during low summer flows greatly increases the risk to the population.

Fall Chinook salmon in the Chetco and surrounding rivers were proposed for listing under the Federal Endangered Species Act (ESA) in 1998 by the National Marine Fisheries Service. These populations had experienced substantial decline in the 1980's and early 1990's. The causes for this decline were associated with extended periods of draught and with excessive harvest rates in mixed stock fisheries off the northern California/southern Oregon coast. The ODFW persuaded the National Marine Fisheries Service not to list these populations at that time, but they remain as a candidate species for ESA, to be reviewed periodically.

In 1995 and 1996 the South Coast District of the ODFW made empirical estimates of the number of wild fall Chinook salmon that escaped to spawn in the Chetco River. In 1995 there were an estimated 8,530 adult wild fall Chinook salmon that spawned in the Chetco. In 1996 the estimate was 3,561 wild adults. These are the only years that estimates of adult Chinook salmon were made. The ODFW tracks the health of the population by conducting spawning ground surveys on select streams. The peak counts of Chinook gives us relative information that allows managers to track the trend of the population. The limiting factor for this population is the freshwater component of the estuary.

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WATER RESOURCES DEPT
SALEM OREGONEXHIBIT 8
PAGE 1 OF 4

ATTACHMENT B2

The fisheries associated with the fall Chinook salmon in the Chetco River and the nearshore ocean have significant economic value for the Brookings area. The average annual harvest of Chinook salmon in the Chetco River sport fishery is 1,700 adult fish. In addition to the in-river sport fishery, we manage for a local ocean fishery at the mouth of the river in October that has a quota of 1,000 Chinook for the sport fisherman and 1,000 Chinook for the commercial fishermen. Values have been determined for both sport and commercial salmon fisheries in Oregon (Olsen et al, 1989). These values have been adjusted to 2001 for this report. In-river sport fisheries are worth \$42.55 in terms of expenditures to the local economy. For sport ocean salmon fisheries the value is \$67.17. This value represents the money spent locally for each angler day. Evaluation indicates an average of 3 angler days per Chinook salmon caught. These fisheries represent an annual value to the Brookings economy of \$428,515. The value of these Chinook in local commercial fisheries is not represented in this estimate, but is also significant.

For the ESEE analysis it is easy to say what impacts not allowing the conflicting use would have. The conflicting use is the Brookings water withdrawal; not allowing it would protect the estuarine habitat required by the fall Chinook salmon, maintaining both the population and the fishery. Allowing the limited impact of up to 5.1 cfs to be withdrawn would, in the professional judgment of ODFW, also protect the population and the fishery. Allowing the full impact of the conflicting use, 16-20 cfs withdrawn, would cause significant impact to the resource. This may or may not cause extirpation of the population, but it would dramatically reduce the fishery, potentially resulting in the loss of the fishery. Full use of the conflicting use may lead to this population being listed under ESA.

It is important to point out that it is impossible to ascribe discrete levels of impact to the resource (fall Chinook salmon) from specific levels of impact (increased water withdrawn). What is certain is that you increase the level of risk to the resource by reducing the amount of freshwater in the estuary.

For the purposes of this analysis, the resource site is defined as the Chetco River from the city's water intake to the mouth of the river. This segment of river consists of fresh water flows into the estuary of brackish water that varies in salinity depending on the level of fresh water flow entering the estuary and the action of the tides. The river above the estuary consists of areas of deeper holes and shallow riffles. The city's water intake facility, classified as a groundwater pumping system for the purpose of treatment, is located 5.3 river miles above the mouth of the river at the confluence of the North Fork Chetco River.

The conflicting use defined for use in this analysis is water withdrawal at the city's water intake facility in regard to the impact on the fishery.

The following is an analysis of the economic, social, environmental, and energy consequences of water withdrawal from the City of Brookings water intake. This analysis examines the resulting impact of three scenarios of water withdrawal:

1. Allowing total withdrawal to the extent allowed by the city's water rights, 20 cubic feet per second (cfs).
2. Prohibiting all withdrawal from the river.
3. Restricting water withdrawal to a predetermined amount when surface water flow reach predetermined levels.

Tables 1, 2 and 3 below, provide a matrix of the impacts produced by the conflicting use under each of the above scenarios.

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SALEM, OREGON

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ATTACHMENT B2

TABLE 1

Consequences of Fully Allowing Conflicting Uses

NAME OF SITE: Chetco River from the city's water intake to the mouth of the river. RESOURCE TYPE: Salmonoid fishery.

Activity	Economic	Social	Environmental	Energy
Water withdrawal at Chetco River intake to the full extent of water rights 20 cfs.	Unlimited withdrawal of water will not limit growth and development of residential, commercial or industrial property, however, if withdrawal has a detrimental impact on the salmonoid fishery there may be a direct impact on tourism, which, in turn, will have an impact on the economy. In 2001 the estimated revenue to the community from sport salmon fishing contributed \$428,515. This would be lost if the fishery were to be destroyed.	The social impact of unlimited water withdrawal would be in the form of lost recreational value on the river. This would include fishing, boating and swimming if water levels were substantially reduced. Sufficient data to determine the actual result of total water withdrawal on the surface water flow level is not available.	Unlimited withdrawal would reduce surface water flow to the point where salmonoid fishes are distressed due to loss of rearing habitat in the estuary, increased water temperatures, possible barriers to migration between the estuary and the river, and possible increased predation.	The primary energy use would be to pump and treat water from the river. The cost of this expenditure is recovered through water billing to customers. The impact of this energy use in terms of generation and transmission are beyond the scope of this analysis.

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TABLE 2

Consequences of Fully Prohibiting Conflicting Uses

NAME OF SITE: Chetco River from the city's water intake to the mouth of the river. RESOURCE TYPE: Salmonoid fishery.

Activity	Economic	Social	Environmental	Energy
Water withdrawal at Chetco River intake to the full extent of water rights 20 cfs.	Fully prohibiting water withdrawal from the river would have extreme economic impact on the city and surrounding areas. If no water withdrawal from the river is allowed, the city would be forced to explore alternative water sources that may or may not be available. Existing development would be without water and without an alternative source the city would ultimately cease to exist.	The livability of the city would drop to an intolerable level. Forcing people to move and thus the complete collapse of the city structure.	Environmentally the river may or may not be enhanced. There is insufficient evidence to determine what impact the current level of withdrawal has on the river to determine what the impact of no withdrawal would be. If alternative water sources are not available, the impact on the area adjacent to and away from the river would be that of abandoned buildings and infrastructure that would take hundreds of years to degrade to a natural state.	The energy needed to pump, treat and distribute water would be saved. The energy used to create the city with its infrastructure will have been wasted.

ATTACHMENT B2

TABLE 3

Consequences of Restricting Water Withdrawal

RESOURCE TYPE: Salmonoid fishery.

NAME OF SITE: Chetco River from the city's water intake to the mouth of the river.

Activity	Economic	Social	Environmental	Energy
Water withdrawal at Chetco River intake not to exceed 5.1cfs when river flows fall to 80cfs.	The limit of 5.1cfs at time when the surface water flows fall to 80cfs and below will allow the city to continue to grow while exploring alternative water sources and/or building storage sufficient to provide water for growth beyond projections for 2015. This scenario will have no significant economic impact but would help preserve the revenue brought into the community by the salmon fishery.	This scenario should have no specific social impact. All recreational aspects of the river will be preserved. At times when curtailment is necessary, the result may be that cars are not washed; lawns and landscaping may suffer, depending on the length of the curtailment period. Current city policy is to encourage the use of native and/or drought resistant plants.	By limiting the withdrawal of water to 5.1cfs a day when the surface flows of the river drop to 80cfs and below, will protect the fishery.	There are no particular energy consequences with this scenario.

The scenario restricting the withdrawal of water from the Chetco River to 5.1cfs when the surface water flows fall to 80cfs or below is the most feasible of the three discussed in this analysis. The city and ODF&W have agreed to the 5.1cfs figure and the city has written an ordinance that will allow the city to implement curtailment measures that begin when the river reaches a three day level of 100cfs and become progressively stronger when the river reaches a three day level of 80cfs.

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SALEM, OREGON

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OREGON DEPARTMENT OF FISH AND WILDLIFE MEMORANDUM

DATE: July 15, 2002

TO: Gail McEwen, Patty Snow

FROM: Russ Stauff

SUBJECT: Brookings/Chetco Water Issue Summary



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WATER RESOURCES DEPT
SALEM, OREGON

The Oregon Department of Fish and Wildlife has long had concerns about low summer flows in the Chetco and the potential for water withdrawals to exacerbate the condition and the impact to fisheries resources, particularly juvenile Chinook salmon. The State of Oregon holds two instream water rights relating to this issue: a converted minimum streamflow of 80 cfs (July-October) with a priority date of 1964; and another right for 100 cfs, same location and time frame, with a date of 1988. The City of Brookings holds several rights for the same reach and has rights totaling 16 cfs for this same reach that are senior to the State's 1964 right. In the early 1990's Brookings began applying for a greatly expanded UGB.

In 1995 I realized that there was no mechanism in place to address the potential for increased water withdrawal during low summer flows to service the (then) proposed UGB expansion. At that time ODFW staff met with DLCD to enquire about making this issue a Goal 5 requirement of the City's public facility plan. DLCD agreed, and Brookings, ODFW, OWRD, and DLCD formed a technical advisory committee to discuss and develop the point. This committee met routinely for 2 or 3 years and the agencies main points were that alternate sources of water to augment the City's increased demand during low flows be developed, and that increased withdrawal from the river during low flows be limited, particularly when river flows are less than 80 cfs, by conservation requirements.

The City of Brookings was very supportive of these concerns, and the TAC was optimistic that a secondary source of water could be developed to augment use during the critical period, allowing the city adequate water to develop the expanded UGB. The most likely source of supplemental water was an old reservoir owned by the city on a small stream, Ferry Creek. This reservoir was the original water source for the city, but had fell into disrepair after the city began using the Chetco as its primary source.

The TAC last met in 1998. Since that time there have been two new mayors and a new city manager at the city. At some point during this time frame the city began to claim that this issue wasn't relevant because they are not withdrawing surface water from the Chetco, but rather they are actually using groundwater. The withdrawal site is adjacent to

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PAGE 1 OF 3

the river just above tidewater and well within the floodplain. The water is collected 30 feet below the surface of the gravel and pumped. This has always been regulated as surface water by OWRD. In fact, the city only has surface water rights for this diversion. The city began working with different consultants in an attempt to demonstrate that it was groundwater they were using and not surface water. I was contacted by at least two consulting firms to discuss the issue, they indicated that it looked like surface water to them, and I never heard from them again. Last winter the city hired another consultant and this person wrote a report for the city speculating that the city's withdrawal may not impact surface flows and also offers further speculation that reducing surface flow shouldn't impact fish. This consultant is not a fish biologist.

My response to the city's claim that they are using groundwater has always been that if they can demonstrate that to peer satisfaction then ODFW would have no problem with dropping the whole issue. However, it is difficult to understand why the city wants to try and claim it is groundwater; if it is groundwater then under Oregon water law the city still needs a surface right as the well is within $\frac{1}{4}$ mile of a stream. They would in effect trade their priority dates from pre-1964 to current date. The city has sent a copy of this report to the local watermaster, but they have not requested formal review by the OWRD groundwater hydrologist. I know from informal conversations with OWRD that they have looked at the report and that they are not agreeing with the conclusions presented in the report.

Other recent developments are that the UGB expansion has been approved, but it was appealed by several third parties. As a remand of the appeal the city is required to address this issue by LUBA. The city has announced that it will not pursue renovating Ferry Creek Reservoir. I received a phone call from person working for the Community Services Division of the Governor's Office on July 10, who seems to be negotiating on behalf of the city. He is requesting a meeting with all the players on July 29.

We were asked by the city in June to provide written recommendation to help the city resolve the issue. I reiterated the ODFW position of some minimal conservation effort when stream flow is less than 100 cfs, with a more stringent conservation plan to be implemented when the flow is less than 80 cfs. The idea developed by the TAC was that withdrawal should be limited to current peak use when the river is below 80 cfs and mandatory conservation measures should be enacted. Ferry Creek reservoir water was to be used to make up the difference current peak use and expanded service for the UGB during that low flow period. In our discussions last month the city pointed out that peak use had increased since the TAC quit meeting in 1998. The city asked at that time if we would consider using the 2001 summer peak use of 3.7 cfs as the threshold to initiate conservation below 80 cfs. I discussed this idea with Patty Snow and we both felt it a reasonable request. The current recommendation to the city is that when the Chetco River is below 100 cfs at the site that the city limit use to not more than 5.1 cfs (the projected peak use to build out the UGB over the next 20 years), and that when the river is less than 80 cfs use be limited to no more than 3.7 cfs.

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WATER RESOURCES DEPT
SALEM, OREGON

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The city indicated that this would be acceptable in our telephone conversation last month, however, they have since changed their mind. In my most recent conversations with the city (7/18) they indicated that they would be willing to agree to withdraw no more than 5.1 cfs when the river is below 80 cfs, but that they would only agree to enacting volunteer conservation measures at that point. The representative from the Governor's office seemed to be lobbying for that deal. I think that both Patty Snow and myself feel that it may be reasonable to agree to a 5.1 cfs limitation when the river is below 80 cfs, but only if accompanied by a mandatory conservation plan. In my opinion the most salient point here is that we have created an opportunity to address a conservation issue that we could not address under regulation of the water rights and we don't want to squander that opportunity. But we also need a reasonable level of protection for the fisheries.

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WATER RESOURCES DEPT
SALEM OREGON

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United States
Department of
Agriculture

Forest
Service

Siskiyou
National
Forest

Chetco Ranger District
555 Fifth Street
Brookings, Oregon 97415

Reply To: 2510 Watershed Planning
2540 Water Uses

Date: June 16, 1992

Curry County Commissioners
Curry County Courthouse
Gold Beach, OR 97444

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WATER RESOURCES DEPT
SALEM OREGON

Dear Rocky, Peg, Terry:

I have been dealing with South Coast Fishermen intermittently over the last few months about questions they had about water and geology in the Chetco watershed. The focus of their concern was the Jack Creek golf course proposal and whether the water use proposed there would impact the Chetco fishery. Numerous questions came up about water flows, the probability of finding a substantial aquifer underlying the area at the golf course, etc. Their questions finally culminated in a letter which asked several very broad, open-ended questions relating to these issues.

I answered their letter with the letter I'm attaching. As you'll see in my letter, their concerns about the fishery in the Chetco parallel concerns that have become clear to us as we've worked our way through planning for the Chetco Wild and Scenic River Management Plan. The Oregon Omnibus Wild and Scenic Rivers Act of 1988 that designated the Chetco River charged the Forest Service with the responsibility to "assist, advise and cooperate with States or their political subdivisions, landowners, private organizations, or individuals to plan, protect and manage river resources." (Section 11(b)(1)).

The essence of the attached letter is that the Chetco is below the minimum streamflow considered necessary for the health and survival of fish during much of August and September in most years. In the last few years, because of the extended drought, the situation is even worse than that. Critical conditions now occur over longer periods. Chetco streamflow is pushing the thresholds on low minimum flows during most of August and September, some of October, and even in late July every year. The other important point is that the probability of finding additional water unrelated to stream flows by drilling deep wells is very slim.

Chinook smolts migrate to the lower mainstem of the river by the late summer period. The low flows exacerbate the already high temperatures in the lower river, creating conditions that are severely stressing fish. Incidents of smolts being killed by extreme conditions have even been reported. This is the current situation.

With potential growth in municipal water system hook-ups in Brookings and Harbor, it is easy to imagine the situation getting enough worse that few smolts survive to reach the ocean. Certainly Brookings and Harbor currently have enough water rights with early enough priority dates to bring the river to that condition, if their rights were fully exercised in the low flow season.

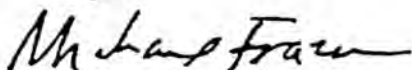
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I won't presume to advise you about the proper outcome of the application for the golf course. I understand that assurances have been made that water won't be used from the river for irrigation during the low flow season. The irrigation water right has restrictions that guarantee that, and wells won't be allowed to supplement river water if they are hydraulically connected to stream flow. However, if there's any chance that once the investment is made, the operation will switch to using Brookings or Harbor municipal water for irrigation during the low flow season, I believe it should not proceed.

It's my opinion that this and other decisions about future growth of water demand from the Chetco River must be made very carefully if we are to avoid causing the Chetco Chinook race to go extinct. There are a few things we can do to mitigate the late summer high temperatures, but these possibilities are limited and will be easily nullified by lower water conditions. I would recommend that a comprehensive, long-term evaluation of water supply and demand be made to provide a context for future decisions on development proposals. There are many water conservation measures available for consideration to help stretch available supplies. If you do decide to undertake such an evaluation, we have staff available on the Siskiyou National Forest who could help in such an effort.

I should point out that conditions on the lower Winchuck River are roughly the same as for the Chetco. There is no gauging station on the Winchuck, so actual flow data are not available. And there are no municipal system withdrawals. However, the pace of development (and associated water withdrawals) appears to be placing similar kinds of pressures on the river. Visual examination of flows in the late summer indicates that the same problems exist there.

I'd be happy to discuss these issues with you further if there is any clarification or additional information I could provide.



MICHAEL FRAZIER
District Ranger

cc: Tim Unterwegner, ODFW; Michael Mattick, Oregon State Water Resources Board;
Ann Ramp, South Coast Fishermen

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WATER RESOURCES DEPT
SALEM OREGON

EXHIBIT 10
PAGE 2 OF 2

STATE OF OREGON
COUNTY OF CURRY
CERTIFICATE OF WATER RIGHT

11

THIS CERTIFICATE ISSUED TO

STATE OF OREGON
WATER RESOURCES DEPARTMENT
SALEM, OREGON 97310

confirms the right to use the waters of CHETCO RIVER, a tributary of the PACIFIC OCEAN, in the SOUTH COAST BASIN to maintain an instream flow for the purpose of SUPPORTING AQUATIC LIFE.

The right is for flows to be maintained IN CHETCO RIVER AND ITS TRIBUTARIES ABOVE THE CONFLUENCE OF CHETCO RIVER & NORTH FORK CHETCO RIVER (SECTION 35, T 40 S, R 13 W) MEASURED BETWEEN SAID CONFLUENCE AND THE CONFLUENCE OF THE CHETCO RIVER AND GLEN BROOK.

The right is established under Oregon Revised Statutes 537.346.

The date of priority is MAY 22, 1964.

The right is limited to not more than 80 cubic feet per second throughout the year.

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WATER RESOURCES DEPT
SALEM OREGON

This instream water right shall not have priority over domestic and livestock uses and irrigation of non-commercial gardens not to exceed one-half acre in area or waters to be legally stored or legally released from storage.

Witness the signature of the Water Resources Director affixed this 17th day of May 1989.

William H. Young
Water Resources Director

Recorded in State Record of Water Right Certificates number 59830.

MF382 17.CHETCO R. & MISC.VOL7.DIST19

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STATE OF OREGON
COUNTY OF CURRY
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

STATE OF OREGON
WATER RESOURCES DEPARTMENT
SALEM, OREGON 97310

confirms the right to use the waters of CHETCO RIVER, a tributary of the PACIFIC OCEAN, in the SOUTH COAST BASIN to maintain an instream flow for the purpose of SUPPORTING AQUATIC LIFE.

The right is for flows to be maintained IN THE CHETCO RIVER BELOW THE NORTH FORK OF THE CHETCO RIVER AND MAINTAINED TO TIDEWATER.

The right is established under Oregon Revised Statutes 537.346.

The date of priority is APRIL 1, 1980.

The right is limited to not more than the amounts during the time periods listed below:

<u>Period</u>	<u>Flows (cubic feet per second)</u>
OCT 1 - OCT 15	200
OCT 16- DEC 31	450
JAN 1 - MAY 31	350
JUN 1 - JUN 15	200
JUN 16- JUN 30	100
JUL 1 - SEP 30	80

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SALEM OREGON

This instream water right shall not have priority over appropriations of water for domestic or livestock uses and irrigation of non-commercial gardens not exceeding one-half acre in area.

This instream water right is subject to 3 CUBIC FEET PER SECOND WHICH IS RESERVED FOR MUNICIPAL PURPOSES.

Sand bars may prevent direct surface flow to the ocean. During such periods, minimum flows shall apply to the head of the pools formed by the sand bars.

Witness the signature of the Water Resources Director affixed this 9th day of JUNE, 1989.

William N. Young
Water Resources Director

Recorded in State Record of Water Right Certificates number 59865.

MF383 17.CHETCO R & MISC.VOL7.DIST19

STATE OF OREGON
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

Oregon Water Resources Department
158 12th Street NE
Salem, Oregon 97310

The specific limits for the use are listed below along with conditions of use.

Source: CHETCO R tributary to PACIFIC OCEAN

County: CURRY

Purpose: Providing required stream flows for migration, spawning, egg incubation, fry emergence, and juvenile rearing.

To be maintained in:

CHETCO RIVER FROM NORTH FORK CHETCO RIVER AT RIVER MILE 5.4
(SWNE, SECTION 35, TOWNSHIP 40S, RANGE 13W WM); TO THE MOUTH AT
RIVER MILE 0.0 (SECTION 8, TOWNSHIP 41S, RANGE 13W WM)

The right is established under Oregon Revised Statutes 537.341.

The date of priority is 11/ 8/1990.

The following conditions apply to the use of water under this certificate:

1. The right is limited to not more than the amounts, in cubic feet per second, during the time periods listed below:

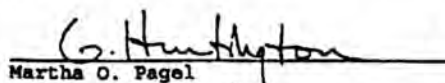
JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
595.0	595.0	595.0	595.0	595.0	350.0	213.0	129.0	101.0	246.0	595.0	595.0

2. The water right holder shall measure and report the in-stream flow along the reach of the stream or river described in the certificate as may be required by the standards for in-stream water right reporting of the Water Resources Commission.
3. For purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
4. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.
5. The flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.

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Witness the signature of the Water Resources Director,
affixed OCTOBER 18, 1996.

DEC 10 2004


Martha O. Pagel

WATER RESOURCES DEPT
SALEM, OREGON

Recorded in State Record of Water Right Certificate number 73087.

1079200



Water Quality


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Water Quality Limited Streams Database

List of Waterbodies in the Chetco Sub-basin of the Southern Oregon Coastal Basin

The following records match your search criteria for waterbodies in the Chetco Sub-basin of the Southern Oregon Coastal Basin. Select a **Record ID** to view details of the waterbody:

Record ID	Waterbody Name	River Mile	Parameter	Season	List Date	Listing Status
4723	Chetco River	0 to 39.4	Fecal Coliform	Winter/Spring/Fall	1998	Attaining Criteria/Uses
4740	Chetco River	0 to 39.4	Dissolved Oxygen	Spring/Summer	1998	Attaining Criteria/Uses
4824	Chetco River	0 to 39.4	pH	Winter/Spring/Fall	1998	Attaining Criteria/Uses
4876	Chetco River	0 to 39.4	Sedimentation		1998	Insufficient/No Data
4939	Chetco River	0 to 39.4	Dissolved Oxygen	Winter/Spring/Fall	1998	Attaining Criteria/Uses
4959	Chetco River	0 to 39.4	pH	Summer	1998	Attaining Criteria/Uses
4960	Chetco River	0 to 39.4	Chlorophyll a	Summer	1998	Attaining Criteria/Uses
4961	Chetco River	0 to 39.4	Fecal Coliform	Summer	1998	Attaining Criteria/Uses
9159	Chetco River	39.4 to 57.1	Temperature	Summer	2002	303(d) List
798	Chetco River	0 to 39.4	Flow Modification		2002	Water Quality Limited Not Needing a TMDL
5008	Chetco River	0 to 39.4	Habitat Modification		2002	Water Quality Limited Not Needing a TMDL
4679	Chetco River	0 to 39.4	Temperature	Summer	2002	Potential Concern

There are 12 records in the table.

For more information please contact Marilyn Fonseca by email at fonseca.marilyn@deq.state.or.us or by phone at (503) 229-6804.

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Water Quality Limited Streams Database Details for Waterbody Segment Record ID 4679

The table below provides details for Record ID 4679.

Field	Details
Waterbody Name	Chetco River
Sub Basin Name	CHETCO
HUC	17100312
LLID	1242700420452
River Mile	0 to 39.4
Parameter	Temperature
Criteria	Rearing: 17.8 C
Season	Summer
Listing Status	Potential Concern
Supporting Data	Data used for listing was collected in a drought year (1994).
Sample Matrix Description	Water Column
Date	2002
Beneficial Uses	salmonid fish rearing anadromous fish passage

For more information please contact Marilyn Fonseca by email at fonseca.marilyn@deq.state.or.us or by phone at (503) 229-6804.

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Water Quality Limited Streams Database

Details for Waterbody Segment Record ID 5008

The table below provides details for Record ID 5008.

Field	Details
Waterbody Name	Chetco River
Sub Basin Name	CHETCO
HUC	17100312
LLID	1242700420452
River Mile	0 to 39.4
Parameter	Habitat Modification
Criteria	The creation of tastes or odors or toxic or other conditions...
Season	
Listing Status	Water Quality Limited Not Needing a TMDL
Supporting Data	None
Sample Matrix Description	Water Column
Date	2002
Beneficial Uses	resident fish and aquatic life salmonid fish spawning salmonid fish rearing

For more information please contact Marilyn Fonseca by email at fonseca.marilyn@deq.state.or.us or by phone at (503) 229-6804.

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Water Quality Limited Streams Database Details for Waterbody Segment Record ID 4798

The table below provides details for Record ID 4798.

Field	Details
Waterbody Name	Chetco River
Sub Basin Name	CHETCO
HUC	17100312
LLID	1242700420452
River Mile	0 to 39.4
Parameter	Flow Modification
Criteria	The creation of tastes or odors or toxic or other conditions...
Season	
Listing Status	Water Quality Limited Not Needing a TMDL
Supporting Data	None
Sample Matrix Description	Water Column
jt Date	2002
Beneficial Uses	resident fish and aquatic life salmonid fish spawning salmonid fish rearing

For more information please contact Marilyn Fonseca by email at fonseca.marilyn@deq.state.or.us or by phone at (503) 229-6804.

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EXHIBIT 14
PAGE 4 OF 4

WATERWATCH OF OREGON, INC.

VENDOR NO: 3

NAME Water Resources Department

CHECK DATE: 12/9/04

9200

REFERENCE NUMBER	INVOICE DATE	GROSS AMOUNT	DISCOUNT TAKEN	NET AMOUNT PAID
CHETCO DISTRICT PRO	12/9/04	250.00	0.00	250.00
TOTAL ▶		250.00	0.00	250.00

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WATER RESOURCES DEPT
SALEM, OREGON

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **71788**

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

INVOICE # _____

RECEIVED FROM: Waterwatch & Union, Inc.

APPLICATION G3361

BY: _____

PERMIT _____

TRANSFER _____

CASH: ☐ CHECK: # 9200 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 250.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES

RECEIVED

OTHER: (IDENTIFY) _____

OVER THE COUNTER

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:

0201 SURFACE WATER

0203 GROUND WATER

0205 TRANSFER

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

0223

OTHER

(IDENTIFY)

PCA47235 Water Right Protest

EXAM FEE

\$

0202

\$

0204

\$

EXAM FEE

\$

0219

\$

0220

RECORD FEE

\$

\$

LICENSE FEE

\$

\$

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: **71788**

DATED: 12/11/01 BY: Renee X Roe

Yellow

Fiscal, Blue Copy - File,



www.wrd.state.or.us

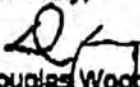
EXHIBIT 15
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Luzier is correct in stating that increased pumping at the collector will result in an immeasurable reduction in surface water stage. We would go further and, taking into consideration a 5% measurement error, state that the reduction in river flow will also be immeasurable. However, Luzier does not mention other potential impacts on the river. The water removed from the gravels through the Ranney Collector is cooler than the surface water during summertime low-flows. The gravels can contribute cooler water to the river channel during these months. Increased pumpage can influence the thermodynamics between gravel water and river flow. (Like Luzier's ground water contribution estimate, this is conjecture on our part, as no studies have been conducted that define the interchange of surface water and ground water within the hyporheic zone.)

Another issue not addressed in the report is the exchange of freshwater for saline water in the estuary. As noted earlier, any pumping from the collector will have a one-to-one reduction in surface water flow. Thus a pumping increase from 1.33 to 3.33 million gallons/day from the collector would reduce flow that dilutes the saltwater in the estuary by two million gallons/day.

Thank you for the opportunity to comment on Mr. Luzier's report. We hope this information helps in the Community Solutions Team discussion of Brookings' water issues

Sincerely,


Douglas Woodcock
Hydrogeologist
OWRD

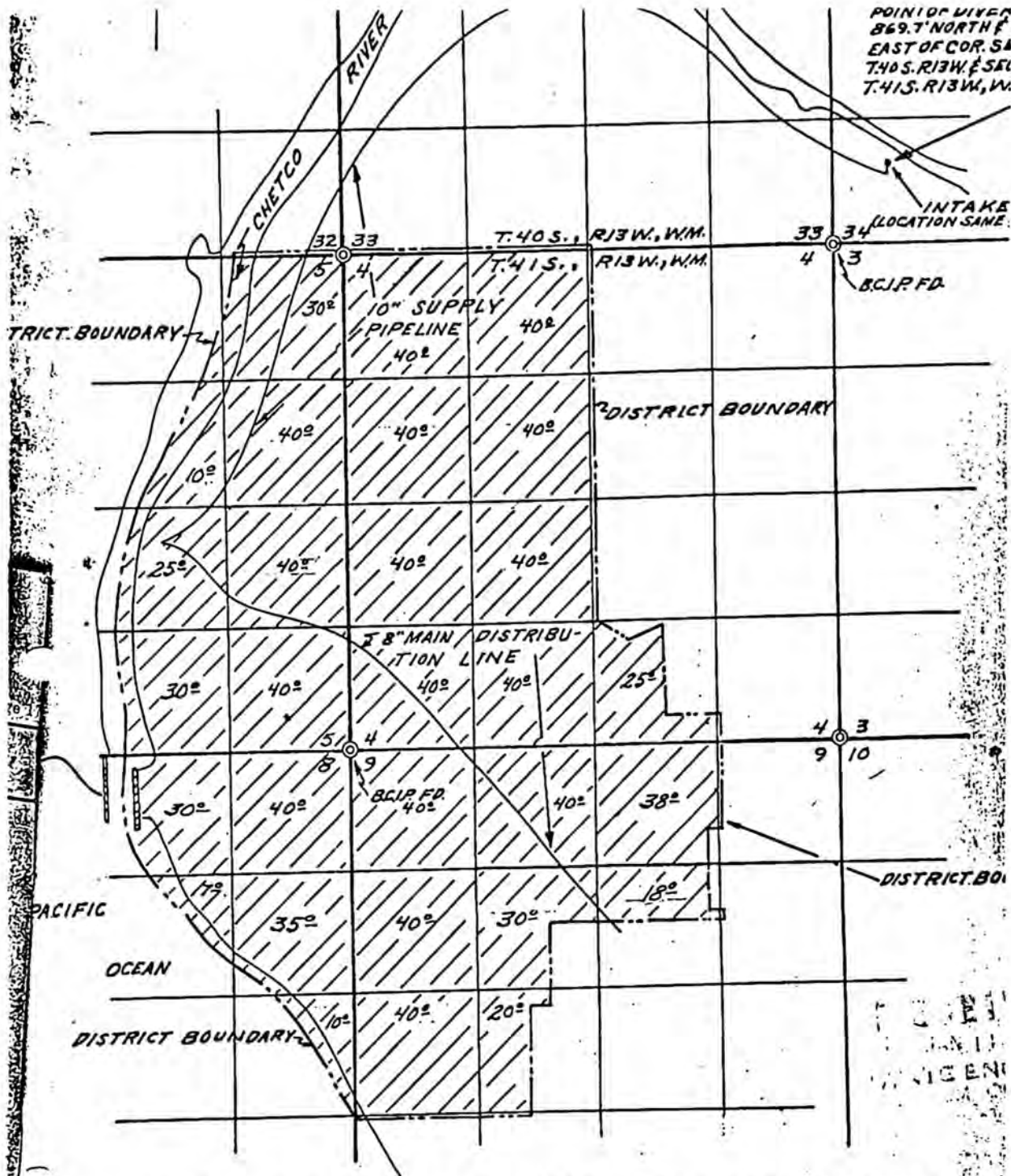
C: Paul Cleary - Director
Al Cook - Regional Manager
Lloyd Van Gordon - Watermaster

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WATER RESOURCES DEPT
SALEM OREGON

EXHIBIT 15
PAGE 2 OF 2



MAP TO ACCOMPANY APPLICATION TO APPROPRIATE
GROUND AND SURFACE WATERS OF THE STATE OF OREGON
FOR
HARBOR RURAL WATER DISTRICT 7
SITUATED IN CURRY COUNTY, OREGON
SCALE: 4" = 1 MILE
JANUARY 1966

WORTHINGTON ASSOCIATES, INC.
CONSULTING ENGINEERS
CORVALLIS, OREGON

EXHIBIT 16
PAGE 1 OF 1

Application No. G-3367-841825
Permit No. G-3367-3134



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WATER RESOURCES DEPT
SALEM, OREGON

Abstract of Permit No. G-3240

Application No. G-3361 Certificate No.

Name Harbor Rural Water District 469-3011
 Address P. O. Box 289 2437
 Harbor, Oregon 97415
 Source of water supply a well
 Use domestic
 Point of diversion 869.7' N. & 621.5' E. from SW cor. Sec. 34, being within SW 1/4 Sec. 34, T. 40 S., R. 13 W., N. M., county of Curry
 Number of acres

DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp	Range	Sec.	NE 1/4				NW 1/4				SW 1/4				SE 1/4			
			NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4	NE 1/4	NW 1/4	SW 1/4	SE 1/4
41S	13W	4					x	x	x	x	x	x	x	x			x	
		5	x		x	x									x	x	x	x
		8	x	x	x	x									x			
		9		x	x		x	x	x	x	x	x						

Priority date January 28, 1966

Amount of water 3.5 c.f.s.

Time limit to begin construction February 23, 1968

Time limit to complete construction 10-1-68 extended to 10/1/89 extended to

Time limit to completely apply water 10-1-69 extended to 10/1/89 extended to

Remarks: The diversion point herein described is identical to that under Permit No. 3136 and the total quantity of water withdrawn under this permit together with the quantity under Permit No. 31365 shall not exceed 3.5 cubic feet per second.

Aug 1989 = 1375-1380 WATER USERS

EXHIBIT 17
 PAGE 1 OF 1



Oregon

John A. Kitzhaber, M.D., Governor

Department of Fish and Wildlife

Habitat Division

2501 SW First Avenue

PO Box 59

Portland, OR 97207

(503) 872-5255

FAX (503) 872-5269

TTY (503) 872-5259

Internet WWW: <http://www.dfw.state.or.us/>



June 20, 2002

Leroy Blodgett, City Manager
City of Brookings
898 Elk Drive
Brookings, OR 97415

RE: City of Brookings Public Facilities Plan

Dear Mr. Blodgett:

The city has asked the Department to specify what kind of water conservation measures we would like to see in the city's public facilities plan which needs to be completed as part of the remand of the city's urban growth boundary amendment. I am enclosing our previous correspondence on this issue for background, but we would like to expand on this as well. Our main recommendation is that municipal water use by the City of Brookings be limited in the public facilities plan during low flow periods identified by ODFW as of concern to fisheries resources in the Chetco River and estuary.

The thresholds for conservation would be the flows identified by ODFW of 80 cfs in our converted minimum flow from 1964, and our 100 cfs in-stream water right from 1980. Our recommendation is that when river flow is less than 100 cfs, as measured immediately upstream of the North Fork Chetco, the City's withdrawal be limited to no more than 5.1 cfs (projected needs for the UGB over the next 20 years). When flow at the same point is less than 80 cfs, our recommendation is that the City's withdrawal be limited to 3.7 cfs (current peak use). The 100 and 80 cfs thresholds would be running seven-day averages, and the limits of 5.1 and 3.7 cfs would be daily averages.

Thank you for the opportunity to provide input on the public facilities plan for Brookings. Please contact me at (503) 872-5255 ext. 5593 or Russ Stauff at (541) 247-7605 if you have any questions regarding our comments.

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WATER RESOURCES DEPT
SALEM OREGON

EXHIBIT 20
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Leroy Blodgett
June 20, 2002
Page 2

Sincerely,

Pat Snow

Patricia Snow
Land and Water Use Coordinator
Habitat Division

Attachment

c Gail McEwen
Dave Parry, DLCD
Russ Stauff, Gold Beach

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SALEM, OREGON

EXHIBIT 20
PAGE 2 OF 2

AMENDMENTS TO CITY COMPREHENSIVE PLAN POLICIES

Document: City of Brookings Comprehensive Plan

Goal: 14 Urbanization

Policy to be Added to the Plan

10. The City of Brookings, in conjunction with the Curry County and the Harbor Water District will develop alternatives to water withdrawals from the Chetco River during the later summer months to address the needs of the fish resources in the development of the Public Facilities and Services Plan for the City of Brookings Urban Growth Boundary. The development of the alternatives to water withdrawals will include the following items.

- A. Findings that recognizes that the fish resource of the Chetco River is significant; the planned population growth and development within the UGB and its planned water withdrawals are uses which conflict with the resource; and the county, city, and special district will consider alternatives and develop a program which will limit the conflicting uses to the extent that they will not negatively impact the fish resource.
- B. The city has completed an Economic, Social, Environmental and Energy analysis of water withdrawal from the Chetco River and have adopted an ordinance providing the city with the mechanisms and implementing measures to curtail the use of water during emergencies, including the time of surface water flows of 80 cfs and below.

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SALEM OREGON

EXHIBIT 21
PAGE 1 OF 1

IN AND FOR THE CITY OF BROOKINGS
STATE OF OREGON

In the Matter of)
)
An Ordinance Adopting a Water Curtailment)
Plan for the City of Brookings to Reduce the)
Level of Water Regularly Used by the City's) ORDINANCE No. 02-O-553
Residents and Apportion Among the Residents)
a Restricted Supply of Water During Summer)
Shortages)
)

WHEREAS, the City of Brookings is required as a condition of Periodic Review to prepare a Water Conservation and Management Plan, and

WHEREAS, the OAR 690-86-140(3) requires a water curtailment element to be submitted as a part of the Water Conservation Management Plan, and

WHEREAS, the City of Brookings primary source of water supply is a well located next to the Chetco River, and

WHEREAS, the City currently has 20 cfs of Chetco River water rights, and

WHEREAS, the Oregon Department of Fish and Wildlife designated the Chetco River as a high priority for restoring in-stream flows during the fall months to facilitate the recovery of anadromous salmonids, and

WHEREAS, in-stream flows on the Chetco River during the fall months are significantly lower than other seasons, and

WHEREAS, the City Council is interested in maintaining in-stream flows when emergency water shortage conditions exist to ensure the viability of this resource as a domestic water source and habitat area for important fishery resources, and

WHEREAS, the City shall limit water withdrawal from the Chetco River to a daily average of 5.1 cfs when the three-day average in-stream water flow falls below 80 cfs.

Now therefore, THE CITY COUNCIL FOR THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:

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WATER RESOURCES DEPT
SALEM OREGON

EXHIBIT 22
PAGE 1 OF 7

Section 1 Section 7 Subpart E of Brookings Ordinance No. 66-O-190 and Section 7 Subpart E of Brookings Ordinance No. 88-O-432 are hereby repealed.

Section 2 A new Section is added to the Brookings Municipal Code after Section 26 of Brookings Ordinance No. 66-O-190 and after Section 26 of Brookings Ordinance No. 8-O-432 as follows:

Section 27. Water Curtailment. It is the policy of the City of Brookings to provide clean, healthful, and plentiful water to its residents. To address the impact of a potential water shortage on the City's residents and the ability of the Chetco River to serve as a viable habitat to important fishery resources, the following rules shall apply.

A. Implementation

In order to limit water withdrawal from the Chetco River to a daily average of 5.1 cfs whenever the three-day average flow of the river is below 80 cfs the following guideline for Levels of Curtailment may be implemented. The City may implement Levels of Curtailment at other time as determined necessary:

Grade 1: River flow is below 100 cfs & water withdrawal is above 4.5 cfs

Grade 2: River flow is below 80 cfs& water withdrawal is above 4.5 cfs

Grade 3: River flow is below 80 cfs& water withdrawal is above 4.7 cfs

Grade 4: River flow is below 80 cfs& water withdrawal is above 5.0 cfs

- (1) River flows shall be a three-day average using a USGS approved method of measurement conducted by a trained person and measured at a location approved by Oregon Water Resources.
- (2) Water withdrawal shall be a 24-hour average. Water withdrawal shall be metered and data shall be available to the public.

B. Levels of Water Curtailment.

(1) Grade 1: Voluntary Curtailment

- (a) Press release shall be sent to local media encouraging water conservation

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- (2) Grade 2 Limited Water Restrictions The following activities or actions are restricted or prohibited under a Grade 2 Water Restriction:
- (a) Watering, sprinkling or irrigating lawn, grass or turf during the odd days of the month except:
 - i. New lawn, grass or turf that has been seeded or sodded 90 days prior to declaration of a water shortage may be watered as necessary until established; and
 - ii. High-use athletic fields that are used for organized play;
 - (b) Watering, sprinkling or irrigating flowers, plants shrubbery, groundcover, crops, vegetation, or trees except from 6:00 p.m. to 10:00 a.m.;
 - (c) Washing, wetting down, or sweeping with water, sidewalks, walkways, driveways, parking lots, open ground or other hard surfaced areas except:
 - i. Where there is a demonstrable need in order to meet public health or safety requirements, such as (1) to alleviate immediate fire or sanitation hazards, (2) for dust control to meet air quality requirements mandated by the Oregon Department of Environmental Quality;
 - ii. Power washing of buildings, roofs and homes prior to painting, repair, remodeling or reconstruction, and not solely for aesthetic purposes;
 - (d) Washing trucks, cars, trailers, tractors or other land vehicles or boats or other water-borne vehicles, except by commercial establishments or fleet washing facilities which recycle or reuse the water in their washing processes, or by bucket and hose with shut-off mechanisms except:
 - i. Where the health, safety and welfare of the public is

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WATER RESOURCES DEPT
SALEM, OREGON

EXHIBIT 22
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contingent upon frequent vehicle cleaning, such as (1) clean garbage trucks, (2) vehicles that transport food and other perishables, or (3) otherwise required by law. Owners/operators of these vehicles are encouraged to utilize establishments which recycle or reuse the water in their washing process;

- (e) Cleaning, filling or maintaining decorative water features, natural or manmade, including but not limited to: fountains, lakes, ponds and streams, unless the water is recirculated through the decorative water feature. Water features which do not include continuous or constant in-flowing water are not included;
 - (f) Wasting water by leaving unattended hoses running;
 - (g) Supplying water for above or in-ground swimming pools; and
 - (h) Other actions deemed necessary by the City Manager.
- (3) Grade 3 Moderate Water Restrictions
- (a) Where not otherwise restricted under a Grade 2 Water Restriction, all Grade 1 Water Restrictions apply;
 - (b) Watering of any lawn, grass or turf, regardless of age or usage;
 - (c) Watering, sprinkling or irrigating flowers, plants, shrubbery, groundcover, crops, vegetation, or trees;
 - (d) Washing of vehicles other than in establishments which recycle their water; and
 - (e) Power washing of buildings, regardless of purpose.
- (4) Grade 4 Severe Water Restrictions
- (a) Where not otherwise restricted under Grade 3 Water Restrictions, Grade 1 and 2 Water Restrictions apply;
 - (b) A maximum daily allotment of water per residential water user set by the City Manager.

(c) Any restriction, which is identified by the Fire Chief.

C. Variances.

Customers not capable of immediate water restrictions shall submit a written request for a variance. The written request will be granted at the discretion of the City Manager. The following information must be provided to the City in requesting a variance:

- (1) Name and address;
- (2) Purpose of water use;
- (3) Specific provision from which the petitioner is requesting relief;
- (4) Description of the relief desired;
- (5) Period of time for which the variance is sought;
- (6) Economic value of the water use;
- (7) Damage or harm to the petitioners or others if petitioner complies with the water restrictions;
- (8) Restrictions with which the petitioner can comply;
- (9) Steps petitioner is taking to achieve full compliance; and
- (10) Any other pertinent information.

D. Notification.

Upon declaration of any Grade of Water Restriction, the City Manager or designee shall:

- (1) Mail the appropriate written notice to each service address inside and outside the city limits declaring the Grade of Water Restriction, findings of fact and conclusions supporting the declaration, and the effective dates of the Water Restriction;
- (2) Publish the same notice in at least one local newspaper of general circulation;
- (3) Notify other area newspapers, radio and television stations by a

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SALEM OREGON

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press release;

- (4) Post the declaration at City Hall, Library, Post Office, Fire Hall and at least one other place in the City where citizens might be expected to congregate;
- (5) If available, place a notice on the Fire Department Reader Board;
- (6) Failure of any water user to receive actual notice of the declaration of a water restriction or emergency or the actions deemed necessary by the City Manager or City Council to address the water shortage shall not relieve the use of obeying the restrictions.

E. Enforcement

- (1) **Warning.** Each violation shall receive a warning. The letter of warning shall be in writing, shall specify the violation, may require compliance measures, and shall be served upon the resident either personally, by office or substitute service, or by certified or registered mail, return receipt requested.
- (2) **Citation.** After the resident has received a warning letter, any subsequent violation shall be treated as a civil violation pursuant to Section ____ of the Brookings Municipal Code.

F. Penalties

- (1) **First Violation**—warning letter.
- (2) **Second Violation**—Class C Violation, subject to a fine of up to \$100 per day.
- (3) **Third Violation**—Class B Violation, subject to a fine of up to \$250 per day.

Section 3 Sections 27 through 30 of Brookings Ordinance No. 66-O-190 and Brookings Ordinance No. 88-O-432 are amended to read as Sections 28 through 31 thereby allowing the insertion of a new Section 27 into the Brookings Municipal Code as specified under Section 2.

First Reading: August 30, 2002

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Second Reading: August 30, 2002

Passage: August 30, 2002

Effective Date: September 29, 2002

Signed by me in authentication of its passage this 30th day of August, 2002.

~~Original signed by Bob Hagbom 8-30-02~~

Bob Hagbom
MAYOR

ATTEST:

Paul Hughes
City Finance Director/Recorder

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WATER RESOURCES DEPT
SALEM OREGON

EXHIBIT 22
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6-3312

(23)

July 3, 2003

To: Lisa Juul
From: Doug Woodcock 
Subject: Flag for Harbor Rural W.D.

Here are the Harbor Rural W.D. files with the extensions for time. I have made no recommendations for ground water-related conditions on the files. As I understand it, the City of Brookings also has SW file with an extension of time request pending. The City of Brookings has an agreement with ODFW to curtail water use with decreasing flows in the Chetco River. The Harbor Rural W.D. has no such requirement to curtail water use but has a Ranney system just like Brookings and is directly connected to the Chetco, just like Brookings.

Per our discussion with Bob Rice today, is it appropriate to formalize the curtailment plan *for both water purveyors* by making the curtailment plan a condition of the permits? I believe both purveyors are senior to the ISWRs for the Chetco. However, the ISWR's are generally not met each summer and ODFW has set Chetco flows as a high priority.

This is a bit beyond the Ground Water Section review, but I pass it on as a heads up to any who are interested.

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EXECUTIVE ORDER NO. EO 99-01

THE OREGON PLAN FOR SALMON AND WATERSHEDS

The purpose of the Oregon Plan for Salmon and Watersheds (the "Oregon Plan") as stated in the Plan and reaffirmed in this Executive Order is to restore Oregon's wild salmon and trout populations and fisheries to sustainable and productive levels that will provide substantial environmental, cultural, and economic benefits and to improve water quality. The Oregon Plan is a long-term, ongoing effort that began as a focused set of actions by state, local, tribal and private organizations and individuals in October of 1995. The Oregon Plan first addressed coho salmon on the Oregon Coast, was then broadened to include steelhead trout on the coast and in the Lower Columbia River, and is now expanding to all at-risk wild salmonids throughout the state. The Oregon Plan addresses all factors for decline of these species, including watershed conditions and fisheries, to the extent those factors can be affected by the state. The Oregon Plan was endorsed and funded by the Oregon Legislature in 1997 through Oregon Senate Bill 924 (1997 Or. Laws, ch. 7) and House Bill 3700 (1997 Or. Laws, ch. 8). The Oregon Plan is described in two principal documents: "The Oregon Plan," dated March 1997, and "The Oregon Plan for Salmon and Watersheds, Supplement I -- Steelhead," dated January 1998. As used in this Executive Order, the Oregon Plan also incorporates the Healthy Streams Partnership (Oregon Senate Bill 1010, 1993 Or. Laws, ch. 263).

The Oregon Plan is a cooperative effort of state, local, federal, tribal and private organizations and individuals. Although the Oregon Plan contains a strong foundation of protective regulations -- continuing existing regulatory programs and speeding the implementation of others -- an essential principle of the Plan is the need to move beyond prohibitions and to encourage efforts to improve conditions for salmon through non-regulatory means. Many of the most significant contributions to the Oregon Plan are private and quasi-governmental efforts to protect and restore salmon on working landscapes, including efforts by watershed councils.

Salmon and trout restoration requires action and sacrifice across the entire economic and geographic spectrum of Oregon. The commercial and sport fishing industries in Oregon have been heavily affected by complete or partial closures of fisheries. The forest industry operates under the Oregon Forest Practices Act, and has contributed substantially to salmon recovery through habitat restoration projects on private lands and by funding a large part of the state recovery efforts. The agriculture and mining industries are also taking actions that will protect and restore salmon and trout habitat and improve water quality (including financial support of restoration efforts by the mining industry). Urban areas are developing water conservation programs, spending funds for wastewater treatment improvements to reduce point source pollution, reducing non-point source pollution and reducing activities that degrade riparian areas. All citizens of Oregon share responsibility for declining populations of wild salmon and trout, and it is important that there be both a broad commitment to reversing these historic trends and a sense that the burdens of restoration are being shared by all of society.

It is also important that there be independent scientific oversight of the Oregon Plan. This oversight is being provided by the Independent Multidisciplinary Science Team (IMST), established under Oregon Senate Bill 924 (1997 Or. Laws, ch. 7). Additional legislative oversight for the Oregon Plan is being provided by the Joint Legislative Committee on Salmon and Stream Enhancement (the "Joint Committee").

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Under the federal Endangered Species Act (ESA) the U.S. Fish & Wildlife Service (F&WS) and the National Marine Fisheries Service (NMFS) are responsible for identifying species that are threatened or endangered, and for developing programs to conserve and recover those species. F&WS and NMFS have now listed salmonids under the ESA on the entire Oregon Coast, the lower Columbia River (including most of the Portland metropolitan area), the Klamath River basin, and in the upper Columbia and Snake River basins. More listings are expected within the next year.

To date, the F&WS and NMFS generally have not had the resources to develop and implement effective recovery plans for fisheries. In addition, in many areas a large proportion of the habitat that listed salmonids depend on is located on private lands, where the regulatory tools under the ESA are relatively ill-defined and indirect. Finally, federal agencies alone, even if they take an active regulatory approach to recovery, will not restore listed salmonids. The federal ESA may work to prohibit certain actions, but there is simply too much habitat on private lands for restoration to succeed without pro-active involvement and incentives for individuals, groups, and local governments to take affirmative actions to restore habitat on working landscapes.

In April, 1997 the State of Oregon and NMFS entered into a Memorandum of Agreement (MOA) under which the State agreed to continue existing measures under the March 1997 Oregon Plan and to take certain additional actions to protect and restore coho salmon on the Oregon Coast. On May 6, 1997, NMFS determined that the Oregon Coast Evolutionarily Significant Unit (ESU) of coho salmon did not warrant listing as a threatened or endangered species under the ESA.

On June 2, 1998, the U.S. District Court for Oregon ordered NMFS to reconsider its decision without taking into account any parts of the Oregon Plan or MOA that are not "current enforceable measures." The U.S. District Court for Oregon also held that the MOA was speculative, due to the fact that it provided for termination by either party on thirty days notice, and that therefore the MOA could not be considered by NMFS in its listing decision.

Under court order, NMFS reconsidered its decision without taking into account the application in the future of the harvest and hatchery measures contained in the Oregon Plan, or the habitat improvement programs being undertaken under the Oregon Plan, or the commitments made by the State of Oregon in the MOA for improvement of applicable habitat measures. Accordingly, NMFS listed Oregon Coast coho as threatened under the ESA on or about October 2, 1998.

The MOA provided for the State of Oregon to take actions necessary to ensure that Oregon Coast coho did not warrant listing as a threatened or endangered species under the federal ESA. Now that Oregon Coast coho are listed as a threatened species as a result of the U.S. District Court's order, the central purpose of the MOA has been eliminated. Due to the uncertainties created by the District Court's decision and the increasing extent of salmonids listed or proposed for listing under the federal ESA, it is important that the status of the State of Oregon's substantive commitments under the MOA and the purpose of the Oregon Plan be clarified.

Through this Executive Order, the State of Oregon reaffirms its intent to play the leading role in protecting and restoring Oregon Coast coho and other salmonids through the implementation of the Oregon Plan. This Executive Order provides the framework and direction for state agencies to implement (to the extent of their authorities) the Oregon Plan in a timely and effective manner. This Executive Order also provides a framework for extending the state's efforts beyond a focus on Oregon Coast coho, to watersheds and fisheries statewide. Consistent with the principle of adaptive management, this Order applies the experience gained to date in implementing the Oregon Plan to provide additional detailed direction to state agencies. Finally, this Executive Order establishes a public involvement process to prioritize continuing efforts under the Oregon Plan.

NOW THEREFORE, IT IS HEREBY ORDERED AND DIRECTED:

(1) Overall Direction

(a) Agencies of the State of Oregon will, consistent with their authorities, fully implement the state agency efforts described in the Oregon Plan and in this Executive Order.

(b) The overall objective for state agencies under the Oregon Plan and this Executive Order is to protect and restore salmonids and to improve water quality.

(c) The Governor will, in cooperation with the Joint Committee, IMST, affected state agencies, watershed councils, and other affected local entities and persons develop and implement a process to set biological and habitat goals and objectives to protect and restore salmonids on a basin or regional basis as soon as practicable. Once these goals and objectives are established, they will be used by state agencies to evaluate their regulatory and non-regulatory programs and measures relating to the protection and restoration of salmonids. Through this on-going evaluation, state agencies will determine any changes to their programs or measures that may be necessary to meet the biological and habitat goals and objectives. In the interim, the following objectives in subsections (d) and (e) shall apply to agencies' implementation of the Oregon Plan and this Executive Order.

(d) Actions that state agencies take, fund and/or authorize that are primarily for a purpose other than restoration of salmonids or the habitat they depend upon will, considering the anticipated duration and geographic scope of the actions:

(A) to the maximum extent practicable minimize and mitigate adverse effects of the actions on salmonids or the habitat they depend on; and

(B) not appreciably reduce the likelihood of the survival and recovery of salmonids in the wild.

(e) State agencies will take, fund and/or authorize actions that are primarily for the purpose of restoring salmonids or the habitat they depend upon, including actions implementing the Oregon Plan, with the goal of producing a conservation benefit that (if taken together with comparable and related actions by all persons and entities within the range of the species) is likely to result in sustainable population levels of salmonids in the foreseeable future, and in population levels of salmonids that provide substantial environmental, cultural and economic benefits to Oregonians in the long term.

(f) With the broadening of the Oregon Plan, prioritizing all agency actions according to coho core areas is no longer appropriate. Each state agency participating in the Oregon Plan, in consultation with ODFW and other partners involved in the implementation of the Plan and through a public involvement process, will modify their existing work programs in the Oregon Plan to prioritize agency measures to protect and restore salmonids in a timely and effective manner. The work programs will continue to identify key specific outcomes, refine and improve designations of priority areas, and establish completion dates. These modifications will be submitted to the Governor, the Joint Committee, and to the appropriate boards and commissions as soon as possible, but in no event later than June 1, 1999. Progress reports on action plans will be submitted to the Governor, the Joint

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Committee, and to the appropriate boards and commissions on an annual basis. In prioritizing their efforts, state agencies shall consider how to maximize conservation benefits for salmonids and the habitat they depend on within limited resources and whether their actions are likely to increase populations of salmonids in the foreseeable future.

(g) State agencies will work cooperatively with landowners, local entities and other persons taking actions to protect or restore salmonids.

(h) As the Oregon Plan grows in geographic scope and in intensity of activity, there is a growing need to streamline and prioritize state agency activity at the regional level. One proposal has been to organize state natural resource agency field operations along hydrologic units. Therefore, state agencies will consider this proposal and, through the collective efforts of state agency directors, develop an organization plan that focuses state agency field effort on the activities and areas of highest priority under the Oregon Plan.

(i) State agencies will continue to encourage and work with agencies of the U.S. government to implement the federal measures described in the Oregon Plan. In addition, the state agencies will work with the federal government to develop additional means of protecting and restoring salmonids. Where appropriate, state

agencies will request that federal agencies obtain incidental take permits under Section 7 of the federal ESA for state actions that are funded or authorized by a federal agency.

(j) State agencies will help support efforts to evaluate watershed conditions, and to develop specific strategic plans to provide for flood management, water quality improvement, and salmonid restoration in basins around the state, including the Willamette basin through the Willamette Restoration Initiative.

(k) The IMST will continue to provide oversight to ensure the use of the best scientific information available as the basis for implementation of and for adaptive changes to the Oregon Plan. State agencies will ensure that the IMST receives data and other information reasonably required for its functions in a timely manner. The Governor's Natural Resources Office (GNRO) has requested that the IMST's initial priority be review of the freshwater habitat needs of coho and the relationship between population levels, escapement levels, and habitat characteristics. The GNRO also will continue to request that the IMST annually review monitoring results and identify where the Oregon Plan warrants change for scientific or technical reasons and make recommendations to the appropriate agency on those adjustments that appear necessary. Agencies will report their responses to any recommendations by the IMST to the Governor and to the Joint Committee. Any other changes identified by the IMST as necessary to achieve properly functioning riparian and aquatic habitat conditions required to protect and restore salmonids will be forwarded to the appropriate governmental entity for its consideration of the adoption of new, changed, or supplemental measures as rapidly as possible while providing for public involvement. Each state agency, by June 1, 1999, will ratify a monitoring team charter through an interagency memorandum. A draft of the charter is contained in the 1998 Oregon Plan Annual Report.

(l) Monitoring is a key element of the Oregon Plan. Each state agency will actively support the monitoring strategy described in the Oregon Plan. Each affected agency will participate on the monitoring team to coordinate activities and integrate analyses. Each agency will implement an appropriate monitoring program to assess the effectiveness of their programs and measures in meeting the objectives set forth in the Oregon Plan on an annual basis. In addition, agencies with regulatory programs that are included in the Oregon Plan will determine levels of compliance with regulatory standards and identify and act on opportunities to improve compliance levels.

(m) If information gathered regarding the effectiveness of measures in the Oregon Plan shows that existing strategies within state control are not achieving expected improvements and objectives, the agency(ies) responsible for those measures will seek appropriate changes in their regulations, policies, programs, measures and other areas of the Oregon Plan, as required to protect and restore coho and other salmonids. Such modification or supplementation will be done as rapidly as possible, consistent with public involvement.

(n) Agencies are using geographically-referenced data in their efforts under the Oregon Plan, and will be using Geographic Information Systems (GIS) in the analysis of these data. In doing so, the State GIS Plan, developed by the Oregon Geographic Information Council (OGIC) (see Executive Order 96-40) will be followed, with specific adherence to the Plan guidance on data documentation, coordination and data sharing. The agency with primary responsibility for gathering and updating the specific data will be responsible for meeting the requirements of the Plan, and to ensure coordination with OGIC, the State Service Center for GIS and other cooperating agencies. In addition, state agencies will cooperate with the Governor's Watershed Enhancement Board (GWEB), Soil and Water Conservation Districts (SWCDs), local watershed councils, landowners and others in making these essential data available.

(o) Geographically-based strategies to assess and achieve habitat needs and adequate escapement levels will be used, and the state agencies will continue with the development of standardized watershed assessment protocols, including a cumulative effects assessment. State agencies will also continue with the development of habitat restoration guides to evaluate and direct habitat restoration efforts.

(2) Continuation and Expansion of Existing Efforts. Without limiting the generality of section (1)(a) of this Executive Order, the following subsections of this Executive Order describe some of the many efforts in the Oregon Plan where the initial phase of work has been completed, and where efforts will be continued.

(a) The Oregon Fish & Wildlife Commission (OFWC), the Oregon Department of Fish & Wildlife (ODFW), and the Pacific Fishery Management Council (PFMC) are managing ocean and terminal fisheries according to the measures set forth in the Oregon Plan (ODFW I-A.1 and III-A.1). These measures set a maximum mortality rate (resulting from other fisheries) for any of four disaggregated stocks of coho of fifteen percent (15%) under poor ocean conditions. In 1997, the mortality rate from harvest is estimated to have been between nine and eleven percent (9-11%). ODFW and OFWC will continue these measures in state waters, and will actively support continued implementation of the ocean harvest measures by the PFMC (Amendment 13 to the Council's salmon management plan) until and unless a different management regime agreeable to NMFS is adopted.

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(b) The OFWC and ODFW will ensure that the fish hatchery measures set forth in the Oregon Plan are continued by the OFWC and ODFW. ODFW is marking all hatchery coho on the Oregon Coast. This marking will allow increased certainty in estimating hatchery stray rates beginning in 1999. Available data on hatchery stray rates for coho and steelhead are being provided to NMFS on an annual basis. The number of hatchery coho released is estimated to have been 1.7 million in 1998 -- substantially below the level called for in the Oregon Plan. This number will be reduced to 1.2 million in 1999. In addition, ODFW has, and will continue to provide annual reports regarding: (i) the number of juvenile hatchery coho that are released by brood year, locations and dates of release, life stage, and broodstock origin; (ii) the number of adult coho taken for broodstock for each hatchery, the location and date of collection, and the origin (hatchery or natural); (iii) the number of hatchery coho estimated to have spawned in natural habitat by basin; (iv) the estimated percentage of hatchery coho in the total natural spawning population; and (v) the mortality of naturally-spawning coho resulting from each fishery. NMFS may provide comments about hatchery programs affecting coho to ODFW, with any concerns to be resolved between NMFS and ODFW.

(c) In addition to recent modifications to hatchery practices and programs, a new vision is needed for how Oregon will utilize hatcheries in the best and most effective manner. Therefore, the ODFW and the OFWC shall engage in a process to create a strategic plan for fish hatcheries in Oregon over the next decade (including state and federally-funded hatcheries, private hatcheries, and the STEP program). The essential elements of this process are as follows: (i) Impartial analysis -- conduct an impartial analysis of the scientific bases, and the social and economic effects of Oregon hatchery programs utilizing existing analyses and review where feasible, but conducting new analyses if necessary; (ii) Review the Wild Fish Management Policy (WFMP) -- because the future plan for hatcheries in Oregon is dependent on implementation of the WFMP, ODFW shall conduct a science and stakeholder review to determine if this significant policy should be revised and shall make any revision by July 2000; (iii) Frame alternative strategies -- convene a group of stockholders to frame alternative strategies, including outcomes and descriptions, of how hatcheries will be used in Oregon over the next decade (these strategies will address the use of hatcheries for wild fish population recovery including supplementation, research and monitoring, public education, and sport and commercial fishing opportunities); (iv) Public review and selection of a strategy -- the OFWC shall, after public review and comment, adopt a strategic plan to guide development of future hatchery programs, incorporating the strategy developed and adopted in accordance with subpart (iii) of this paragraph.

(d) Criteria and guidelines directing the design of projects that may affect fish passage have been established in a Memorandum of Understanding (MOU) between the Oregon Department of Transportation (ODOT), ODFW, the Oregon Department of Forestry (ODF), the Oregon Department of Agriculture (ODA), the Division of State Lands (DSL) and the Federal Highway Administration. These guidelines apply to the design, construction and consultations of projects affecting fish passage. Under the MOU, projects requiring regulatory approvals that follow these criteria and guidelines are expedited. Oregon agencies will continue to provide technical assistance to ensure that the criteria and guidelines are applied appropriately in restoration projects, as well as any other projects that may affect fish passage through road crossings and similar structures. ODFW will work with state agencies, local governments, and watershed councils to ensure that Oregon's standards for fish passage set forth in Exhibit A to the MOU are understood and are implemented.

(c) Fish presence, stream habitat, road and culvert surveys have been conducted for roads within ODOT jurisdiction and county roads in coastal basins, the Lower Columbia basin, the Willamette basin, and the Grande Ronde/Imnaha basins. Among the results of these surveys is the finding that culvert barriers to fish passage affect a substantial quantity of salmonid habitat. For example, surveys of county and state highways in western Oregon found over 1,200 culverts that are barriers to passage. As a result, ODOT is placing additional priority on restoring fish access. For 1998, ODOT repaired or replaced 35 culverts restoring access to 101 miles of salmonid habitat. For 1999, the Oregon Transportation Commission will be asked to fund approximately \$4.0 million for culvert modification. ODOT and the Commission will continue to examine means to speed restoration of fish passage and to coordinate priorities with ODFW.

(f) Draft watershed assessment protocols have been developed and are being field tested. Beginning in 1999, SWCDs, watershed councils and others will be able to use the protocols as the basis for action plans to identify and prioritize opportunities to protect and restore salmonids. Watershed action plans have already been completed in a number of basins including the Rogue, Coos, Coquille and Grande Ronde. State agencies will work to support these watershed assessments and plans to the maximum extent practicable. Where watershed action plans have been developed under the protocols, GWEB will ensure that projects funded through the Watershed Improvement Grant Fund are consistent with watershed action plans, and other state agencies will work with SWCDs and watershed councils to ensure that activities they authorize, fund or undertake are consistent with watershed action plans to the maximum extent practicable.

(g) The State of Oregon has developed interim aquatic habitat restoration and enhancement guidelines for 1998. State agencies involved with restoration activities (ODFW, ODF, DSL, ODA, DEQ, and GWEB) will continue to develop and refine the interim guidelines for final publication in April 1999. The guidelines will be applied in restoration activities funded or authorized by state agencies. The purpose of the guidelines will be to define aquatic restoration and to identify and encourage aquatic habitat restoration techniques to restore salmonids.

(h) ODA and ODF have each entered into a Memorandum of Understanding with the Oregon Department of Environmental Quality relating to the development of Total Maximum Daily Loads (TMDLs) and Water Quality Management Area Plans (WQMAPs). ODA will adopt and implement WQMAPs (through the Healthy Streams Partnership) and ODF will review the adequacy of forest practices rules to meet water quality standards. ODF and ODA will evaluate the effectiveness of these measures in achieving water quality standards on a regular basis and implement any changes required to meet the standards.

(i) Agencies are implementing a coordinated monitoring program, as described in the Oregon Plan. This program includes technical support and standardized protocols for watershed councils, stream habitat surveys, forest practice effectiveness monitoring, water withdrawal monitoring, ambient water quality monitoring, and biotic index studies, as well as fish presence surveys and salmonid abundance and survival monitoring in selected subbasins. State agencies are also working to coordinate monitoring efforts by state, federal, and local entities, including watershed councils. State agencies will work actively to ensure that the monitoring measures in the Oregon Plan are continued.

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(j) GWEB has put into place new processes for identifying and coordinating the delivery of financial and technical assistance to individuals, agencies, watershed councils and soil and water conservation districts as they implement watershed restoration projects to improve water quality and restore aquatic resources. Over \$25 million has been distributed for watershed restoration projects in the last ten years. During the present (1997-99 biennium) GWEB has awarded over \$12 million dollars in state and federal funds for technical assistance and watershed restoration activities to implement the Oregon Plan. GWEB and state agencies will continue to seek financial resources to be allocated by GWEB for watershed restoration activities at the local and statewide levels.

(k) State agencies will continue to encourage, support and work to provide incentives for local, tribal, and private efforts to implement the Oregon Plan. In addition, state agencies will continue to provide financial assistance to local entities for projects to protect and restore salmonids to the extent consistent with their budgetary and legal authorities, and consistent with their work programs in the Oregon Plan. To the maximum extent practicable, state agencies will also provide technical assistance and planning tools to provide local conservation groups to assist in and target watershed restoration efforts. These efforts (during 1996 and 1997) are reported in "The Oregon Plan for Salmon and Watersheds: Watershed Restoration Inventory, 1998." Just a few of the important efforts that have been completed include:

(A) Eighty-two watershed councils have joined with forty-five Soil and Water Conservation Districts as well as private and public landowners to implement on-the-ground projects to protect and restore salmonids. During 1996 and 1997, a reported \$27.4 million was spent on 1,234 watershed restoration projects on non-federal lands. Both the amount spent and the number of projects represent significant increases (of over 300 percent) over prior years. In 1996-97, watershed councils, SWCDs and other organizations and individuals completed: (i) 138 stream fencing projects, involving at least 301 miles of streambank; (ii) 196 riparian area planting projects, involving at least 111 miles of streams; and (iii) 458 instream habitat improvement projects.

(B) Private and state forest landowners are implementing key efforts under the Oregon Plan, including the road risk and remediation program (ODF-1 and 2). Under this effort in 1996 and 1997, close to 4,000 miles of roads have been surveyed to identify risks that the roads may pose to salmonid habitat. As the risks are identified, they are then prioritized for remediation following an established protocol. Already, 52 miles of forest roads have been closed, 843 miles of road repair and reconstruction projects to protect salmonid habitat have been completed,

and an additional 14 miles of roads have been decommissioned or relocated. In addition, 530 culverts have been replaced, upgraded or installed for fish passage purposes, improving access to a reported 146 stream miles.

(C) Organizations working in Tillamook County have developed the Tillamook County Performance Partnership. The Partnership is implementing the Tillamook Bay National Estuary Program by addressing water quality, fisheries, floodplain management and economic development in the county. Among the actions that the Partnership has already accomplished are: (i) the closure of seven miles of degraded forest roads and the rehabilitation of 469 miles of roads to meet current standards, at

a cost of \$18 million; (ii) the fencing of 53 miles of streambank, and the construction of three cattle bridges and 100 alternative cattle watering sites, at a cost of \$214,000; and (iii) the completion of 24 instream restoration projects and 34 barbs protecting 4,200 feet of streambank, at a cost of \$1.3 million dollars.

(D) The Confederated Tribes of the Grande Ronde Community of Oregon have completed a forest management plan that establishes standards for the protection of aquatic resources that are comparable to those found in the Aquatic Conservation Strategy of the Northwest Forest Plan.

(E) A combination of funding from the Oregon Wildlife Heritage Foundation and the National Fish and Wildlife Heritage Foundation (private, non-profit organizations) is providing support for seven biologists to design restoration projects. These projects are prioritized based on stream surveys, and are carried out with the voluntary participation and support of landowners. A ten-year monitoring plan has been funded and implemented to determine project effectiveness.

(F) The Oregon Cattlemen's Association has implemented its WEST Program that is designed to help landowners better understand their watersheds and stream functions through assessments and monitoring. The WEST Program brings landowners together along stream reaches, and offers a series of workshops, conducted on a site specific basis, free of charge. The workshops include riparian ecology, setting goals and objectives, Proper Functioning Condition (PFC), data collection and monitoring. Over 25 workshops have been held, with attendance ranging from 5 to 30 landowners per workshop. The WEST Program is sponsored by the Oregon Cattlemen's Association, DEQ, Oregon State University, and GWEB.

(G) Within the Tillamook State Forest road network 1,902 culverts have been replaced or added to improve road drainage and to disconnect storm water runoff from roads reducing stream sediment impacts. Additionally, some of these culverts also improved fish passage at stream crossings. In this process, ODF has also replaced six culverts with bridges improving fish passage to approximately four miles of stream. The Tillamook State Forest in conjunction with many partners, such as the Association of Northwest Steelheaders, GWEB, Simpson Timber Company, Tillamook County, the FishAmerica Foundation, Hardrock Construction Company, the Oregon Wildlife Heritage Foundation, the F&WS, the Oregon Youth Conservation Corps, Columbia Helicopters and Terra Helicopters, has also recently completed instream placement of over 400 rootwads, trees and boulders at a cost of \$300,000 for habitat enhancement.

(3) **Key Agency Efforts.** Continuation and completion of the following state agency efforts is critical to the success of the Oregon Plan. State agencies will make continuation or completion (as appropriate) of the following efforts a high priority.

(a) The State of Oregon and the U.S. Department of Agriculture have entered into a Conservation Reserve Enhancement Program (CREP). This cost-share program, one of the first of its kind, will be used to reduce the impacts of agricultural practices through water quality and habitat improvement.

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The objectives of the CREP are to: (i) provide incentives for farmers and ranchers to establish riparian buffers; (ii) protect and restore at least 4,000 miles of stream habitat by providing up to 95,000 acres of riparian buffers; (iii) restore up to 5,000 acres of wetlands that will benefit salmonids; and (iv) provide a mechanism for farmers and ranchers to comply with Oregon's Senate Bill 1010 (1993 Or. Laws, ch. 263).

(b) ODF will work with non-industrial forest landowners to administer the Stewardship Incentive Program and the Forest Resources Trust programs to protect and restore riparian and wetland areas that benefit salmonids.

(c) The Oregon Board of Forestry will determine, with the assistance of an advisory committee, to what extent changes to forest practices are needed to meet state water quality standards and to protect and restore salmonids. A substantial body of information regarding the effectiveness of current practices is being developed. This information includes: (i) the IMST report regarding the role of forest practices and forest habitat in protecting and restoring salmonids; and (ii) a series of monitoring projects that include the Storms of 1996 study, a riparian areas study, a stream temperature study, and a road drainage study. Using this information, as well as other available scientific information including scientific information from NMFS, the advisory committee will make recommendations to the Board at both site and watershed scales on threats to salmonid habitat relating to sediment, water temperature, freshwater habitat needs, roads and fish passage. Based on the advisory committee's recommendations and other scientific information, the Board will make every effort to make its determinations by June 1999. The Board may determine that the most effective means of achieving any necessary changes to forest practices is through regulatory changes, statutory changes or through other programs including programs to create incentives for forest landowners. In the event that the Board determines that legislative changes are necessary to carry out its determinations, the Board will transmit any recommendations for such changes to the Governor and to the Joint Committee at the earliest possible date.

(d) Consistent with administrative rule, and statutory and constitutional mandates for the management of state forests, ODF State Forest management plans will include an aquatic conservation strategy that has a high likelihood of protecting and restoring properly functioning aquatic habitat for salmonids on state forest lands.

(e) ODF will present to NMFS a Habitat Conservation Plan (HCP) under Section 10 of the federal ESA that includes the Clatsop and Tillamook State Forests. ODF has already completed scientific review and has public review underway for this draft HCP. The scientific and public review comments will be considered by ODF in completing the draft HCP. The draft HCP will be presented to NMFS by June 1999. An HCP for the Elliott State Forest was approved by the U.S. Fish & Wildlife Service in 1995. In October of 1997, ODF and DSL forwarded the Elliott State Forest HCP to NMFS with the request that it be reviewed to determine whether it has a high likelihood of protecting and restoring properly functioning aquatic habitat conditions on state forest lands necessary to protect and restore salmonids. Based on discussions surrounding the NMFS review, ODF and DSL will determine what revisions, if any, are required to the Elliott HCP and/or Forest Management Plan to ensure a high likelihood of protecting and restoring properly functioning aquatic habitat for salmonids.

(f) Before the OFWC adopts and implements fishery regulations that may result in taking of coho, ODFW will provide NMFS with all available scientific information and analyses pertinent to the proposed regulation where the harvest measures are not under the jurisdiction of the PFMC, including results of the Oregon Plan monitoring and evaluation program. This information, together with the proposed regulation and supporting analysis, will be provided at least two weeks prior to the OFWC's action, to give NMFS time to review and comment on the proposed regulations.

(g) ODFW will evaluate the effects of predation on salmonids, and will work with affected federal agencies to determine whether changes to programs and law relating to predation are warranted in order to protect and restore salmonids.

(h) Under Oregon Senate Bill 1010 (1993 Or. Laws, ch. 263), ODA will adopt Agricultural Water Quality Management Area Plans (AWQMAPs) for Tier I and Tier II watersheds by the end of 2002. The AWQMAPs will be designed and implemented to meet load allocations for agriculture needed to achieve state water quality standards. In addition, ODA will work with ODFW, DEQ, GWEB, SWCDs, federal agencies and watershed councils to determine to what extent additional measures related to achieving properly functioning riparian and aquatic habitat on agricultural lands are needed to protect and restore salmonids, giving attention first to priority areas identified in the Oregon Plan. In the event ODA is unable to reach a consensus regarding such measures, ODA will ask the IMST to review areas of substantive scientific disagreement and to make recommendations to ODA regarding how they should be resolved. In the event that legislative changes are needed to implement such measures, ODA will transmit any recommendations for such changes to the Governor and to the Joint Committee at the earliest possible date. In addition, any measures identified as needed by ODA will be implemented at the earliest practicable time.

(i) ODFW will expedite its applications for instream water rights and OWRD will process such applications promptly where flow deficits are identified as adversely affecting salmonids, and where such rights are not already in place. The Oregon Water Resources Department (OWRD) and the Oregon Water Resources Commission (OWRC) will also seek to facilitate flow restoration targeted to streams identified by OWRD and ODFW as posing the most critical low-flow barriers to salmonids. In addition, where necessary, OWRD will continue to work with the Oregon State Police to provide enforcement of water use. Where illegal water uses are identified, OWRD will ensure outcomes consistent with maintenance and restoration of flows.

(j) The Oregon Environmental Quality Commission (EQC) and DEQ will evaluate and will make every effort to utilize their authorities to continue to provide additional protection to priority areas (as determined under section 1(f) of this Executive Order), including in-stream flow protection under state law, and antidegradation policy under the federal Clean Water Act (including Outstanding Resource Waters designations and high quality waters designations).

(k) DSL has proposed to adopt changes to its Essential Salmonid Habitat rules that will provide additional protection for spawning and rearing areas of anadromous salmonids. In addition, ODFW and DSL will consult with the OWRC to determine where it is necessary to administratively close priority areas (including work under General Authorizations) to fill and removal activities in order to protect salmonids. DSL, ODFW, ODF and ODA also will work together to identify means of regulating the removal of organic material (such as large woody debris) from streams where such removal would adversely affect salmonids and would not be contrary to other agency mandates.

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(l) DSL will seek the advice of the IMST regarding whether gravel removal affects gravel and/or sediment budgets in a manner that adversely affects salmonids.

(m) The Department of Land Conservation and Development (DLCD), and the Land Conservation and Development Commission (LCDC) will evaluate and, to the extent feasible, speed implementation of existing Goal 5 requirements for riparian corridors.

(n) DLCD, DEQ, ODF, ODA, ODFW, and DSL and their respective boards and commissions will evaluate and implement programs to protect and restore riparian vegetation for the purposes of achieving statewide water quality standards and protecting and restoring aquatic habitat for salmonids.

(o) DLCD, with the assistance of DSL and ODFW, and in consultation with coastal cities and counties, shall review the requirements of Statewide Planning Goal 16 as they pertain to estuarine resources important to the restoration of salmonids, and shall report its findings to LCDC for its consideration.

(p) The Oregon State Police will work to facilitate the existing cooperative relationship with the NMFS Office of Law Enforcement, as well as to maintain cooperation with other enforcement entities, in order to enhance law enforcement, public awareness and voluntary compliance related to harvest, habitat and other issues addressed in the Oregon Plan.

(q) The Oregon Parks and Recreation Department will continue to work to provide information and education to the public on salmon and steelhead needs through park programs and interpretive aids.

(r) The Oregon Marine Board will work to ensure fish friendly boating and to develop boating facilities that protect salmonids.

(s) State natural resource agencies will continue, to the extent feasible, to support watershed councils by providing technical assistance to develop watershed assessments, restoration plans and to develop watershed priorities to benefit salmonids. In addition, state natural resource agencies will work on a larger watershed scale to develop basin-wide restoration priorities.

(4) Future Modifications; Public Involvement for the Oregon Plan Generally. The GNRO will solicit public comments and input from participants in the Oregon Plan regarding whether there are refinements or changes to the Plan and/or the organizational framework for implementing the Plan that are necessary or desirable based on the experience gained over the past three years, or resulting from the widespread listings and proposed listings of salmon and trout under the federal ESA. Based on this public involvement, the GNRO will provide a report and recommendations to the Governor and the Joint Committee regarding whether modifications are necessary to the Oregon Plan in order to protect and restore coho and other salmonids.

(5) Definitions. For purposes of this Executive Order:

(a) The "Oregon Plan" means the Oregon Coastal Salmon Recovery Initiative, dated March 1997, and the Steelhead Supplement, dated January 1998. "Oregon Plan," as used in this Order, is intended to be consistent with the definition of the Oregon Coastal Salmon Recovery Initiative in Oregon Senate Bill 924 (1997 Or. Laws, ch. 7), and to include the Healthy Streams Partnership (1993 Or. Laws, ch. 263).

(b) "Protect" has the meaning given in section (1)(d) of this Executive Order.

(c) "Restore" has the meaning given in section (1)(e) of this Executive Order. Restore necessarily includes actions to manage salmonids to provide for adequate escapement levels, and actions to increase the quantity and improve the quality of properly functioning habitat upon which salmonids depend.

(d) "Coho" means native wild coho salmon found in rivers and lakes along the Oregon Coast.

(e) "Salmonids" means native wild salmon, char and trout in the State of Oregon.

(6) Effective Date; Relation to Federal ESA. This Executive Order will take effect on the date that it is filed with the Secretary of State. The State of Oregon will continue to work with NMFS to determine the appropriate relationship between the Oregon Plan and NMFS's efforts under the federal ESA.

Done at Salem, Oregon, this 8th day of January, 1999.

/s/ _____

John A. Kitzhaber, M.D.

GOVERNOR

ATTEST:

/s/ _____

Suzanne Townsend

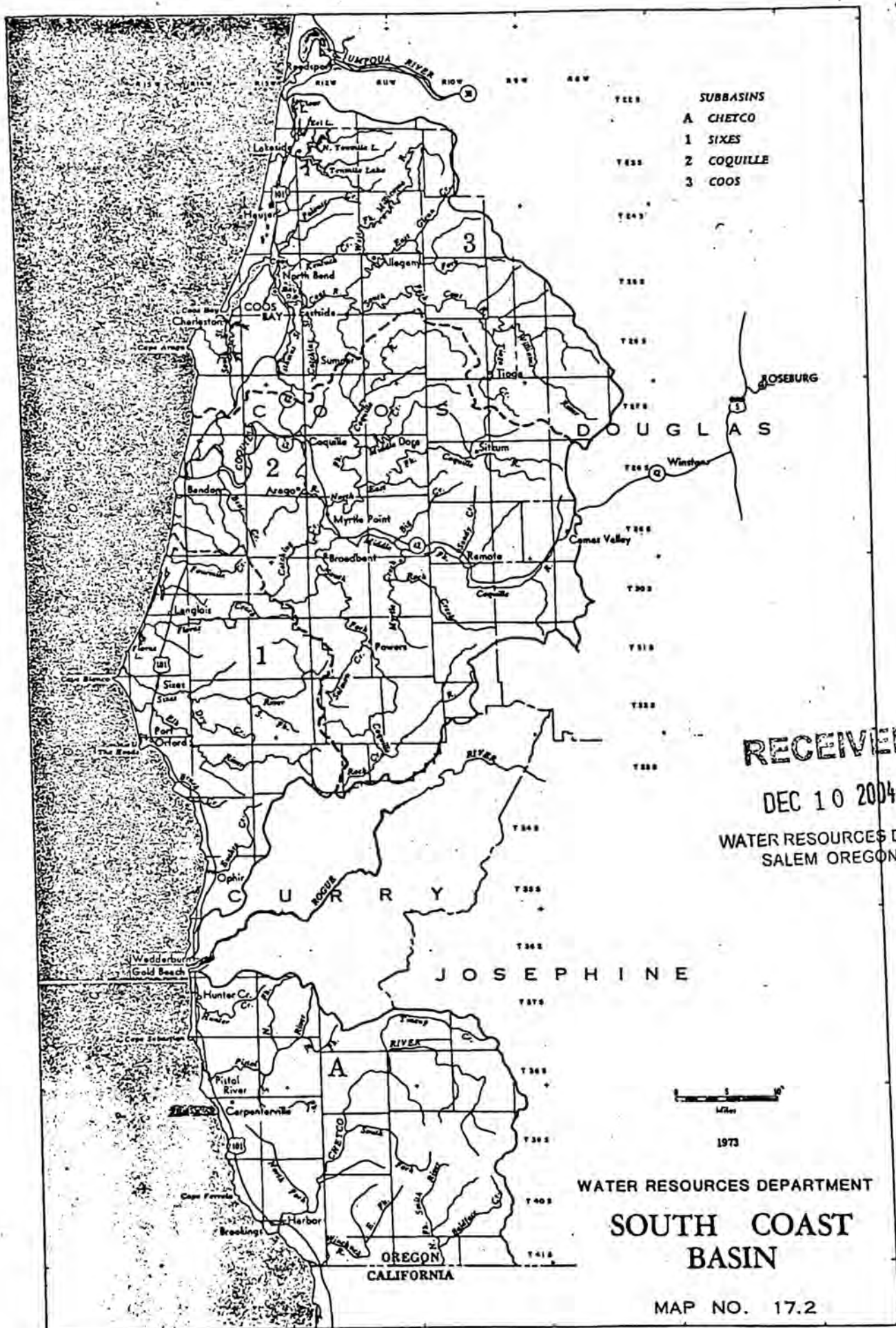
DEPUTY SECRETARY OF STATE

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BEFORE THE WATER POLICY REVIEW BOARD
OF THE
STATE OF OREGON

In the matter of formulating an integrated, coordinated program for the use and control of the water resources of the State of Oregon)
)
) South Coast Basin
)
) September 25, 1984*
)

Under ORS 536.300 the Water Policy Review Board is directed to study and formulate programs for the use and control of the water resources of this state. A water resource program for the South Coast Basin as delineated on the Water Resources Department Map, File 17.6, was adopted on May 22, 1964, and modified on May 20, 1977, January 19, 1979 and April 1, 1980.

As provided by Chapter 536, Oregon Revised Statutes, the Water Policy Review Board has restudied the water resources of the South Coast Basin and has reached the following findings and conclusions:

1. Less than one percent of the average annual streamflow is estimated to occur during the months of August and September. The seasonal distribution of the resource is and will continue to be the major water supply problem in the basin.
2. There are potential water storage sites in the basin that could be developed to augment water supplies.
3. Ground water quality in the South Coast Basin is generally good but is characterized by high iron and manganese concentrations and moderate hardness.
4. Bacterial and viral contamination caused by improper sub-surface sewage disposal and poor well construction practices exists but is not widespread.
5. Ground water is a significant factor in the maintenance of natural lakes in the dunes area. Extensive ground water development may affect lake water levels.
6. On an annual basis, there is enough surface water for all present and future municipal needs in the basin.
7. Seasonal municipal water supply shortages will be a significant future problem in the South Coast Basin.

* Modifies South Coast Basin Programs dated May 22, 1964; May 20, 1977; January 12, 1979; April 1, 1980 and May 8, 1981.

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8. Development of municipal water supplies in storage reservoirs could meet existing and projected municipal needs.
9. Ground water could be used to supplement some municipal water supplies.
10. Ground water resources in the marine terrace deposits east, north and northwest of the City of Port Orford may be sufficient to augment existing municipal supplies.
11. Aquifers in the marine terrace deposit on both sides of the Coquille River may be capable of producing ground water for the City of Bandon. The dune complex extending from Bullards Beach State Park northward appears to offer the greatest potential for municipal supplies.
12. Ground water resources in the North Bend / Coos Bay area appear to be largely limited to the dune complex and are currently being developed as a municipal water source. The potential for further development of this source is presently being studied.
13. Ground water resources in aquifers near Langlois, Coquille, Myrtle Point and Lakeside may be sufficient to augment existing supplies for those communities.
14. Selected natural lakes could be used to supplement existing municipal water supplies. Restrictions on the amount of water withdrawn may be desirable to preserve the esthetic quality of the lakes. Outlet control structures may be necessary to protect lake levels.
15. The waters of Clear Lake, Edna Lake, Ferry Creek and Geiger Creek were withdrawn for municipal use under Orders of the State Engineer.
16. Livestock, dairying, cranberries and flower bulbs are major agricultural endeavors.
17. Irrigation water shortages occur during the summer months annually on many streams throughout the South Coast Basin. Lack of surface water may deter further agricultural development in the South Coast Basin unless adequate reservoir storage is developed.
18. The existing irrigated acreage is small compared to the potentially irrigable acreage in the South Coast Basin.
19. The total extent of the ground water supply in the basin has not been determined. Existing data suggest ground water supplies are limited and would not support irrigation in most areas.
20. Marine terrace deposits and sediments of the Coquille formation are potential ground water sources for irrigation of cranberries in the Bandon area.

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BEFORE THE WATER POLICY REVIEW BOARD
OF THE
STATE OF OREGON

In the matter of formulating an	)	
integrated, coordinated program	)	South Coast Basin
for the use and control of the	)	
water resources of the State of	)	September 25, 1984*
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As provided by Chapter 536, Oregon Revised Statutes, the Water Policy Review Board has restudied the water resources of the South Coast Basin and has reached the following findings and conclusions:

1. Less than one percent of the average annual streamflow is estimated to occur during the months of August and September. The seasonal distribution of the resource is and will continue to be the major water supply problem in the basin.
2. There are potential water storage sites in the basin that could be developed to augment water supplies.
3. Ground water quality in the South Coast Basin is generally good but is characterized by high iron and manganese concentrations and moderate hardness.
4. Bacterial and viral contamination caused by improper sub-surface sewage disposal and poor well construction practices exists but is not widespread.
5. Ground water is a significant factor in the maintenance of natural lakes in the dunes area. Extensive ground water development may affect lake water levels.
6. On an annual basis, there is enough surface water for all present and future municipal needs in the basin.
7. Seasonal municipal water supply shortages will be a significant future problem in the South Coast Basin.

* Modifies South Coast Basin Programs dated May 22, 1964; May 20, 1977; January 12, 1979; April 1, 1980 and May 8, 1981.

21. Marine terrace deposits in the Harbor area are capable of producing large quantities of water, but some areas are approaching levels of sustained yield.
22. Expansion of irrigated agriculture in the Basin will depend on development of adequate water supplies and market conditions.
23. Salt water intrusion from the Pacific Ocean forces curtailment of irrigation in the lower Coquille and Coos River valleys during periods of low flow.
24. Camas Valley, near the upper Middle Fork Coquille River, annually experiences a summer shortage of domestic and agricultural water. There is not sufficient natural flow during summer in the Middle Fork Coquille River to alleviate the summer water shortage in Camas Valley. Total annual flow is sufficient to relieve shortages if storage facilities were available to retain excess winter flows.
25. Water for temperature control for agricultural purposes is presently a significant use only in the cranberry-growing areas near Bandon, but is increasing in the Harbor Beach area.
26. Water is also used for agricultural harvesting and land preparation in the Basin.
27. Forest products and food processing are the major water-using industries in the Basin.
28. Most industry is concentrated in the Coos Bay / North Bend area and is supplied by the municipal system.
29. Some industrial users have been affected by seasonal water supply shortages. Lack of surface water may deter industrial development in the South Coast Basin, unless adequate reservoir storage is developed.
30. Seafood processing plants are the largest industrial water users in many basin communities.
31. No large mines are known to be currently active, although known coal deposits exist in the Coos Bay area and at Eden Ridge.
32. There is little information on future water needs for mining.
33. Domestic water supplies for residences outside of municipal or group domestic service areas are from wells, springs and streams. In many cases, these sources are inadequate and subject to pollution.
34. Regional water systems could improve the quality and quantity of domestic water supplies in some areas.

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35. Although shortages may occur at specific locations, there is generally water of sufficient quantity and quality in the South Coast Basin for both existing and projected livestock use.
36. There are no major hydroelectric installations in the Basin.
37. The greatest potential for hydroelectric development in the Basin is on the upper South Fork Coquille River.
38. Hydroelectric generation may also be feasible on other streams in the basin.
39. Income from water-related recreation is a major contributor to the economy of the South Coast Basin.
40. The natural lakes, storage reservoirs and free-flowing streams support part of the water-based recreational use.
41. Most of the dunes area north of Coos Bay has been designated as a national recreation area.
42. The water resources, wetlands and associated habitat are critical to the subsistence and propagation of wildlife in the Basin.
43. The coastal streams support resident and anadromous species of fish.
44. The fish resources of the South Coast Basin are significant to the State of Oregon.
45. Adequate streamflow throughout the year is necessary for the maintenance of aquatic life in the coastal streams.
46. Low summer streamflow in many Basin streams is one factor limiting production of salmonids.
47. Summer flows in some streams will not support recommended minimum flows.
48. Multiple-purpose storage could be used to enhance aquatic life by augmenting streamflows and providing some water temperature control at critical times.
49. Flooding occurs frequently on many streams throughout the South Coast Basin.
50. There are presently no flood retention structures in the Basin, although localized flood protection is provided by dikes on some streams.

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21. Marine terrace deposits in the Harbor area are capable of producing large quantities of water, but some areas are approaching levels of sustained yield.
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27. Forest products and food processing are the major water-using industries in the Basin.
28. Most industry is concentrated in the Coos Bay / North Bend area and is supplied by the municipal system.
29. Some industrial users have been affected by seasonal water supply shortages. Lack of surface water may deter industrial development in the South Coast Basin, unless adequate reservoir storage is developed.
30. Seafood processing plants are the largest industrial water users in many basin communities.
31. No large mines are known to be currently active, although known coal deposits exist in the Coos Bay area and at Eden Ridge.
32. There is little information on future water needs for mining.
33. Domestic water supplies for residences outside of municipal or group domestic service areas are from wells, springs and streams. In many cases, these sources are inadequate and subject to pollution.
34. Regional water systems could improve the quality and quantity of domestic water supplies in some areas.

51. Flood plain management and watershed treatment measures may reduce flood damages in some areas.
52. South Coast river systems above the estuaries are relatively free of organic pollution although surface sources may require some treatment for human consumption.
53. Siltation and high water temperatures occur at various times of the year in a number of Basin streams, adversely affecting instream uses.
54. Drainage is a problem in many areas, primarily affecting agricultural lands.
55. The Coquille River estuary is important in the life cycle of several anadromous fish species including runs of coho, chum and chinook salmon, steelhead, cutthroat trout, shad and striped bass.
56. The Coquille River has water quality problems caused by point and non-point sources of pollution and low flows.
57. Specific flow needs to support aquatic life in the lower Coquille River have not been determined, but are believed to be significantly higher than the flows required for effluent dilution.
58. Maintenance of established minimum flow regimes to the mouth of the Coquille River is more appropriate for the support of aquatic life than flow rates proposed for water quality.

NOW THEREFORE BE IT RESOLVED that the Water Policy Review Board hereby adopts the following revised program in accordance with the provisions of ORS 536.210 to ORS 536.590 pertaining to the water resources of the South Coast Basin as delineated on Water Resources Department Map, File 17.6;

- I. Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, (28), 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Termile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.
- II. The waters of the following lakes are classified only for domestic livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

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- lowest)
- A. Bradley Lake
 - B. Eel Lake
 - C. Garrison Lake

III. All other natural lakes are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife.

IV. Waters of the following streams and all tributaries are classified only for domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area, fire control and instream use for recreation, fish life and wildlife.

A. Glenn Creek (tributary to the East Fork Millicoma River)

B. Brush Creek

V. The waters of the Middle Fork of the Coquille River and tributaries upstream from the confluence with Holmes Creek are classified only for domestic, livestock and irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife during the period from July 1 to September 30 of every year. Water stored between October 1 and June 30 may be used at any time for purposes specified in paragraph VIII.

VI. The waters of the West Fork Millicoma River and tributaries above Stall Falls are classified for municipal, domestic and livestock uses, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and instream use for recreation, fish life and wildlife.

VII. The waters of Pony Creek above lower Pony Creek Dam and Ferry and Geiger Creeks above the Ferry Creek - Geiger Creek confluence are classified for municipal use.

VIII. All other surface and ground water resources are hereby classified for domestic, livestock, municipal, industrial, fire control, irrigation, agricultural use, mining, power development, recreation, wildlife and fish life uses.

IX. Water in the amounts specified is reserved in the following streams for municipal use:

A. Chetco River - three cfs, downstream from the confluence with the North Fork Chetco River

B. Winchuck River - one cfs, downstream from the confluence with Bear Creek

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51. Flood plain management and watershed treatment measures may reduce flood damages in some areas.
52. South Coast river systems above the estuaries are relatively free of organic pollution although surface sources may require some treatment for human consumption.
53. Siltation and high water temperatures occur at various times of the year in a number of Basin streams, adversely affecting instream uses.
54. Drainage is a problem in many areas, primarily affecting agricultural lands.
55. The Coquille River estuary is important in the life cycle of several anadromous fish species including runs of coho, chum and chinook salmon, steelhead, cutthroat trout, shad and striped bass.
56. The Coquille River has water quality problems caused by point and non-point sources of pollution and low flows.
57. Specific flow needs to support aquatic life in the lower Coquille River have not been determined, but are believed to be significantly higher than the flows required for effluent dilution.
58. Maintenance of established minimum flow regimes to the mouth of the Coquille River is more appropriate for the support of aquatic life than flow rates proposed for water quality.

NOW THEREFORE BE IT RESOLVED that the Water Policy Review Board hereby adopts the following revised program in accordance with the provisions of ORS 536.210 to ORS 536.590 pertaining to the water resources of the South Coast Basin as delineated on Water Resources Department Map, File 17.6;

- I. Ground water resources in sections or the portions of Sections 13, 14, 22, 23, 26, 27, 32, 33 and 34 of Township 23 South, Range 13 West; 2, 3, 4, 9, 10, 11, 14, 15, 16, 17, 20, 21, 22, 27, 28, 29, 31, 32, 33 and 34 of Township 24 South, Range 13 West; and 3, 4, 5 and 6 of Township 25 South, Range 13 West, bounded on the north by Ternile Creek, on the west by the Pacific Ocean, on the south by Coos Bay and on the east by Highway 101 are hereby classified for single or group domestic, livestock, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and any single industrial or commercial use not exceeding 5,000 gallons per day.
- II. The waters of the following lakes are classified only for domestic livestock, municipal, irrigation of lawns and noncommercial gardens not exceeding one-half acre in area and in-lake use for recreation, fish life and wildlife. The Director of the Water Resources Department may place specific limits on municipal appropriations from the lakes or require outlet control structures to protect recreation, fish life and wildlife uses:

X. For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

A. The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.

B. Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:

1. The minimum perennial streamflow for the Elk River above U.S. Highway 101 crossing (45 cfs) is rescinded.
2. The minimum perennial streamflow for the Coquille River Middle Fork above Bear Creek (4 cfs) is rescinded.
3. The minimum perennial streamflow for the Sixes River above the U.S. Highway 101 crossing is reduced to 25 cfs during the period from August 1 to September 30.
4. The minimum perennial streamflow for the South Fork Coquille River near Powers is reduced to 15 cfs during the period from June 16 to September 30.

For purposes of distributing water, minimum flows established in 1964 shall be considered part of and not in addition to revised minimum flow regimes.

C. To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws 1983, no appropriations of water shall be made or granted by any state agency or public corporation of the state for the waters of the Coquille River and tributaries when flows are below the specified levels in Table 2. This limitation shall not apply to:

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1. Domestic and livestock uses and irrigation of non-commercial gardens not exceeding 1/2 acre in area.
 2. Water legally released from storage.
- D. All applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Water Policy Review Board prior to approval. During the review the Water Policy Review Board may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution.
- XI. The following reservoir sites should be protected through the comprehensive planning process for possible future development or until alternative methods of meeting water needs have been developed:
- A. West Fork of the Millicoma River, site 223.
 - B. South Fork of Coquille River at Eden Ridge, site 430.
 - C. North Fork Coquille River, site 146A
 - D. Rock Creek at Rasler Creek, site 201.
 - E. Catching Creek, site 101.
 - F. Fourmile Creek, site 158.
 - G. North Fork Floras Creek at Okietown, site 435.
 - H. North Fork Chetco River, site 239.
 - I. Wheeler Creek, site 241.
 - J. East Fork Winchuck River, site 243.
 - K. Joe Ney Slough.
- XII. Applications for the use of water for any purposes contrary to classifications specified in the basin program shall not be accepted or granted except as provided by law. The Director shall notify the Board and other interested individuals or agencies of the intent to accept an application for use in conflict with the adopted program in accordance with ORS 536.380 if the proposed use will not have a significant impact on any other water use as provided in Section I through XI of this program.
- XIII. The planning, construction and operation of any structures or works for the utilization of water in accordance with the aforementioned classifications are to conform with the applicable provisions of ORS 536.310, including but not restricted to the recommendation of the multiple-purpose concept.
- XIV. No out-of-basin diversion of South Coast Basin water shall be made or granted by any state agency or public corporation of the state without the prior approval of, and following a public hearing by, the Water Policy Review Board.
- XV. Water rights and permits issued prior to the effective date of this program shall not be affected except as provided in Section X.

Done and dated this 25th day of September 1984.

RECEIVED WATER POLICY REVIEW BOARD

DEC 10 2004

Ralph Bakanson
Ralph Bakanson, Chairman

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SALEM OREGON

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X. For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses and irrigation of noncommercial gardens not exceeding one-half acre in area shall be allowed for the waters of the streams and tributaries listed in Table 1 when flows are below the specified levels.

A. The Water Policy Review Board requests the opportunity to review applications for an allowed beneficial use that has traditionally been identified as nonconsumptive or take-and-put, such as fish hatcheries, hydroelectric facilities, municipal or water process industries that could potentially impact, in an adverse way, the Board's minimum flow regime or the public interest. The Water Policy Review Board intends to continue to protect, in its entirety, that portion of the stream system on which any minimum streamflow has been established. Permitting procedures and water use regulation should reflect that objective as far as possible under the law. The Board solicits the advice or complaints of any party who is aware that the objectives are not being met.

B. Minimum flows established in the Water Resource Program for the South Coast Basin dated May 22, 1964 (Table 3), shall remain in full force and effect except as follows:

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TABLE 1
Minimum Perennial Streamflows (cfs)

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>Winchuck River: at USGS WRO gage 14400200 (SW 1/4 SE 1/4 Section 24, Township 41 South, Range 13 West)</u>												
20 30/150*	20 150*	20 150*	20 120*	20 120*	20 120*	20 120*	20 120*	20 80/30*	20 20*	20 20*	20 20*	5-22-64 4-1-80
<u>Oretco River: below North Fork Oretco River and maintained to tidewater**</u>												
80 200/450*	80 450*	80 450*	80 350*	80 350*	80 350*	80 350*	80 350*	80 200/100*	80 80*	80 80*	80 80*	5-22-64 4-1-80
<u>Pistol River: below Deep Creek and maintained to tidewater**</u>												
15 40*	15 40/255*	15 255*	15 255/230*	15 230*	15 230*	15 230*	15 230*	15 100/30*	15 30*	15 20*	15 20*	5-22-64 4-1-80
<u>Hunter Creek: below Little South Fork and maintained to tidewater**</u>												
7 15/125*	7 125*	7 125*	7 100*	7 100*	7 100*	7 100*	7 100*	7 70/50*	7 7*	7 7*	7 7*	5-22-64 4-1-80
<u>Euchre Creek: below Cedar Creek and maintained to tidewater**</u>												
10 15/120*	10 120*	10 120*	10 120/80*	10 80*	10 80*	10 80*	10 80*	10 60/15*	10 10*	10 10*	10 10*	5-22-64 4-1-80
<u>Elk River: at WRO gage 14327250 (SW 1/4 SE 1/4 Section 6, Township 33 South, Range 14 West) and maintained to tidewater**</u>												
60/150	300	300	300	300/225	225	225	225	80/45	45	45	45	4-1-80
<u>Sixes River: below Edson Creek and maintained to tidewater**</u>												
30 40/215*	30 215*	30 215*	30 215*	30 215/190*	30 190*	30 190*	30 190*	30 120/40*	30 40*	25 25*	25 25*	5-22-64 4-1-80
<u>Flores Creek: at Highway 101 bridge and maintained to tidewater**</u>												
5 20/120*	5 120*	5 120*	5 120/100*	5 100*	5 100*	5 100*	5 100*	5 70/20*	5 10*	5 5*	5 5*	5-22-64 4-1-80
<u>North Fork Coquille River: below Neeley Creek and maintained to above Whitley Creek</u>												
8	8	8	8	8	8	8	8	8	8	8	8	5-22-64
<u>North Fork Coquille River: at former USGS gage 735 (NW 1/4 Section 36, Township 28 South, Range 12 West) and maintained to the mouth</u>												
26 100/180*	26 180*	26 180*	26 180/160*	26 160*	26 160*	26 160*	26 160*	26 100/50*	26 26*	26 26*	26 26*	5-22-64 4-1-80
<u>Middle Creek tributary to North Fork Coquille River: below Cherry Creek and maintained to mouth</u>												
40	70	70	70	70	70	70	55	20	10	10	10	4-1-80
<u>East Fork Coquille River: above the East Fork Coquille River - China Creek confluence</u>												
10 35/95*	10 95*	10 95*	10 95/75*	10 75*	10 75*	10 75*	10 75*	10 50/15*	10 10*	10 10*	10 10*	5-22-64 4-1-80
<u>East Fork Coquille River: below Elk Creek and maintained to mouth</u>												
60/110	110	110	110/95	90	90	90	90	70/25	25	15	15	4-1-80
<u>Middle Fork Coquille River: above Twelvemile Creek</u>												
70/30	30	30	30/35	35	35	35	35	25/8				

* Earlier priority date for all or a portion of the indicated flow.
** Sand bars prevent direct surface flow to the ocean of many South Coast basin streams at times. During such periods minimum flows shall apply to the head of the pools formed by the sand bars.

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TABLE 1 (continued)
Minimum Perennial Streamflows (cfs)

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>Middle Fork Coquille River: above the Middle Fork Coquille River - Sandy Creek confluence</u>												
10 40/110*	10 110*	10 110*	10 110/100*	10 100*	10 100*	10 100*	10 100*	10 70/25*	10 10*	10 10*	10 10*	5-22-64 4-1-80
<u>Middle Fork Coquille River: above former USGS gage 737 (NW 1/4 SE 1/4 Section 26, Township 29 South, Range 12 West) and maintained to mouth</u>												
15 50/175*	15 175*	15 175*	15 175/155*	15 155*	15 155*	15 155*	15 155*	15 100/40*	15 15*	15 15*	15 15*	5-22-64 4-1-80
<u>South Fork Coquille River: at USGS - WRD Gage 14825000 (SE 1/4 Section 12, Township 31 South, Range 12 West)</u>												
22 60*	22 90*	22 70*	22 70*	22 70*	22 70*	22 70*	22 70*	22/15 40/15*	15 15*	15 15*	15 15*	5-22-64 4-1-80
<u>South Fork Coquille River: at tidewater</u>												
250	200	180	180	180	180	180	180	100/45	45	45	45	4-1-80
<u>South Fork Coos River: at tidewater</u>												
30 100/150*	30 150*	30 150*	30 150*	30 150*	30 150*	30 150*	30 150*	30 100/40*	30 40*	30 30*	30 30/40*	5-22-64 4-1-80
<u>Williams River: below Bottom Creek and maintained to mouth</u>												
10 80*	10 90*	10 90*	10 90*	10 90*	10 90*	10 90*	10 90*	10 60/30*	10 30*	10 15*	10 15/20*	5-22-64 4-1-80
<u>Tloga Creek: below Shotgun Creek and maintained to mouth</u>												
4 20/50*	4 60*	4 70*	4 60*	4 60*	4 60*	4 60*	4 60*	4 30/10*	4 10*	4 5*	4 5*	5-22-64 4-1-80
<u>East Fork Millicoma River: above Watson Creek</u>												
12	40/60	60	60	60	60	60	60	20/10	10	5	5	4-1-80
<u>East Fork Millicoma River: at mouth</u>												
15 50/150*	15 150*	15 150*	15 130*	15 130*	15 130*	15 130*	15 130*	15 80/20*	15 20*	15 15*	15 15*	5-22-64 4-1-80
<u>West Fork Millicoma River: below Deer Creek</u>												
15/50	60	60	60	60	60	60	60	25/10	10	5	5	4-1-80
<u>West Fork Millicoma River: at mouth</u>												
6 35/100*	6 100*	6 90*	6 90*	6 90*	6 90*	6 90*	6 90*	6 60/20*	6 20*	6 10*	6 10*	5-22-64 4-1-80
<u>Daniels Creek: below Morgan Creek</u>												
12	20	20	20	20	20	20	20	10	3	3	3	4-1-80
<u>Larson Creek: at tidewater</u>												
10/15	15	15	15	15	15	15	15	10	2	2	2	4-1-80
<u>Palouse Creek: at tidewater</u>												
10/15	15	15	15	15	15	15	15	10	2	2	2	4-1-80
<u>Roberts Creek: above confluence with Johnson Creek</u>												
7/10	10	10	10	10	10	10	10	7	1	1	1	4-1-80

* Earlier priority date for all or a portion of the indicated flow.

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SALEM OREGON

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TABLE 1
Minimum Perennial Streamflows (cfs)

Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>Winchuck River: at USGS WRD gage 14400200 (SW 1/4 SE 1/4 Section 24, Township 41 South, Range 13 West)</u>												
20 30/150*	20 150*	20 150*	20 120*	20 120*	20 120*	20 120*	20 120*	20 80/30*	20 20*	20 20*	20 20*	5-22-64 4-1-80
<u>Oretco River: below North Fork Oretco River and maintained to tidewater**</u>												
80 200/450*	80 450*	80 450*	80 350*	80 350*	80 350*	80 350*	80 350*	80 200/100*	80 80*	80 80*	80 80*	5-22-64 4-1-80
<u>Pistol River: below Deep Creek and maintained to tidewater**</u>												
15 40*	15 40/255*	15 255*	15 255/230*	15 230*	15 230*	15 230*	15 230*	15 100/30*	15 30*	15 20*	15 20*	5-22-64 4-1-80
<u>Hunter Creek: below Little South Fork and maintained to tidewater**</u>												
7 15/125*	7 125*	7 125*	7 100*	7 100*	7 100*	7 100*	7 100*	7 70/50*	7 7*	7 7*	7 7*	5-22-64 4-1-80
<u>Euchre Creek: below Cedar Creek and maintained to tidewater**</u>												
10 15/120*	10 120*	10 120*	10 120/80*	10 80*	10 80*	10 80*	10 80*	10 60/15*	10 10*	10 10*	10 10*	5-22-64 4-1-80
<u>Elk River: at WRD gage 14327250 (SW 1/4 SE 1/4 Section 6, Township 33 South, Range 14 West) and maintained to tidewater**</u>												
60/150	300	300	300	300/225	225	225	225	80/45	45	45	45	4-1-80
<u>Sixes River: below Edson Creek and maintained to tidewater**</u>												
30 40/215*	30 215*	30 215*	30 215*	30 215/190*	30 190*	30 190*	30 190*	30 120/40*	30 40*	25 25*	25 25*	5-22-64 4-1-80
<u>Flores Creek: at Highway 101 bridge and maintained to tidewater**</u>												
5 20/120*	5 120*	5 120*	5 120/100*	5 100*	5 100*	5 100*	5 100*	5 70/20*	5 10*	5 5*	5 5*	5-22-64 4-1-80
<u>North Fork Coquille River: below Neeley Creek and maintained to above Whitley Creek</u>												
8	8	8	8	8	8	8	8	8	8	8	8	5-22-64
<u>North Fork Coquille River: at former USGS gage 735 (NW 1/4 Section 36, Township 28 South, Range 12 West) and maintained to the mouth</u>												
26 100/180*	26 180*	26 180*	26 180/160*	26 160*	26 160*	26 160*	26 160*	26 100/50*	26 26*	26 26*	26 26*	5-22-64 4-1-80
<u>Middle Creek tributary to North Fork Coquille River: below Cherry Creek and maintained to mouth</u>												
40	70	70	70	70	70	70	55	20	10	10	10	4-1-80
<u>East Fork Coquille River: above the East Fork Coquille River - China Creek confluence</u>												
10 35/95*	10 95*	10 95*	10 95/75*	10 75*	10 75*	10 75*	10 75*	10 50/15*	10 10*	10 10*	10 10*	5-22-64 4-1-80
<u>East Fork Coquille River: below Elk Creek and maintained to mouth</u>												
60/110	110	110	110/95	90	90	90	90	70/25	25	15	15/20	4-1-80
<u>Middle Fork Coquille River: above Twelvemile Creek</u>												
11/30	50	50	50/35	35	35	35	35	25/8				4-1-80

* Earlier priority date for all or a portion of the indicated flow.
 ** Sand bars prevent direct surface flow to the ocean of many South Coast Basin streams at times. During such periods minimum flows shall apply to the head of the shoals formed by the sand bars.

TABLE 1 (continued)
Minimum Perennial Streamflows (cfs)

	Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>Benson Creek: at mouth</u>													
8/15	15	15	15	15	15	15	15	15	8	2	2	2	4-1-80
<u>B... Creek: above confluence with Noble Creek</u>													
8/15	15	15	15	15	15	15	15	15	8	2	2	2	4-1-80
<u>Eel Creek: below Eel Lake</u>													
8/12	12	12	12	12	12	12	12	12	8	3	3	3	4-1-80

TABLE 2

	Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>South Fork Coquille River: below Middle Fork Coquille River and maintained to the mouth. (Earlier priority date for the indicated flow to tide-water.)</u>													
200	200	180	180	180	180	180	180	180	100/45	45	45	45	11-3-83
<u>Coquille River: below the confluence of North Fork and South Fork Coquille River and maintained to the mouth.</u>													
300/380	380	360	360	340	340	340	340	340	200/95	71	71	71	11-3-83

* Earlier priority date for all or a portion of the indicated flow.
 ** Sand bars prevent direct surface flow to the ocean of many South Coast Basin streams at times.
 During such periods minimum flows shall apply to the head of the pools formed by the sand bars.

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TABLE 3
MINIMUM PERENNIAL STREAMFLOWS

Adopted May 22, 1964

AS AMENDED April 1, 1980

1. Winchuck River or its tributaries above the U.S. Highway 101 crossing for flows of the Winchuck River below 20 cubic feet per second measured at a point between the U.S. Highway 101 crossing and the Winchuck River - Moser Creek confluence.
2. The Chetco River or its tributaries above the Chetco River - Chetco River North Fork confluence for flows of the Chetco River below 80 cubic feet per second measured at a point between said confluence and the Chetco River - Glen Brook confluence.
3. The Pistol River or its tributaries above the Pistol River - Cook Creek confluence for flows of the Pistol River below 15 cubic feet per second measured at a point between said confluence and 1.0 miles above said confluence.
4. Hunter Creek or its tributaries above U.S. Highway 101 crossing for flows of the Hunter Creek below 7 cubic feet per second measured at a point between U.S. Highway 101 crossing and 2.0 miles above said crossing.
5. Euchre Creek or its tributaries for flows of the Euchre Creek below 10 cubic feet per second measured at a point between the mouth and the Euchre Creek - Cedar Creek confluence.
6. The Sixes River or its tributaries above the U.S. Highway 101 crossing for flows of the Sixes River below 30 cubic feet per second measured at a point between U.S. Highway 101 crossing and the Sixes River - Beaver Creek confluence. (25 cubic feet per second during the period August 1 to September 30.)
7. Floras Creek or its tributaries above the U.S. Highway 101 crossing for flows of the Floras Creek below 5 cubic feet per second measured at a point between U.S. Highway 101 crossing and 0.5 miles above said crossing.
8. The Coquille River North Fork or its tributaries above former USGS Gage 735 (NW 1/4 Section 36, Township 28 South, Range 12 West), near Myrtle Point, Oregon for flows of the Coquille River North Fork below 26 cubic feet per second measured at the aforementioned gage site.
9. The Coquille River North Fork or its tributaries above the Coquille River North Fork - Whitly Creek confluence for flows of the Coquille River North Fork below 8 cubic feet per second, measured at a point between said confluence and the Coquille River North Fork - Neeley Creek confluence.
10. The Coquille River East Fork or its tributaries above the Coquille River East Fork - China Creek confluence for flows of the Coquille River East Fork below 10 cubic feet per second measured at a point between said confluence and 1.0 miles above said confluence.

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TABLE 1 (continued)
Minimum Perennial Streamflows (cfs)

	Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>Beason Creek: at mouth</u>													
2/15	15	15	15	15	15	15	15	15	8	2	2	2	4-1-80
<u>Big Creek: above confluence with Noble Creek</u>													
6/15	15	15	15	15	15	15	15	15	8	2	2	2	4-1-80
<u>Eel Creek: below Eel Lake</u>													
8/12	12	12	12	12	12	12	12	12	8	3	3	3	4-1-80

TABLE 2

	Oct 1-15/16-31	Nov 1-15/16-31	Dec	Jan 1-15/16-31	Feb 1-15/16-28	Mar	Apr	May	June 1-15/16-30	July	Aug	Sept 1-15/16-30	Priority Date
<u>South Fork Coquille River: below Middle Fork Coquille River and maintained to the mouth. (Earlier priority date for the indicated flow to tide-water.)</u>													
200	200	180	180	180	180	180	180	180	100/45	45	45	45	11-3-83
<u>Coquille River: below the confluence of North Fork and South Fork Coquille River and maintained to the mouth.</u>													
300/380	380	360	360	360	360	360	360	360	200/95	71	71	71	11-3-83

* Earlier priority date for all or a portion of the indicated flow.
 ** Sand bars prevent direct surface flow to the ocean of many South Coast Basin streams at times.
 During such periods minimum flows shall apply to the head of the pools formed by the sand bars.

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LCDC - ...
 on Brookings Remand
 Issue #2 (Chetco water withdrawals)

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City of Brookings

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April 12, 2001

new analysis, no reduction in the commercial land need for the year 2015 is warranted. This is a reasonable approach which adequately responds to the issue raised in the remand order.

The department does not agree with either of the objections above because they are outside of the scope of the commission's remand order. The issue of the 3% population growth rate used in the UGB findings was addressed and approved in the commission's previous review. Curry County has adopted a coordinated population projection for the city and county, pursuant to ORS 195.036; this projection incorporates the 3% annual growth rate for the city.

On the second objection, the remand order does not require the city and county to reconsider the existing supply of commercial sites at all. Rather, the city and county are required to explain the formula used to project the demand for additional commercial land based on growth in population. The issue of buildable lands was addressed and approved in the commission's previous review.

Conclusion: The city and county have recalculated the need for commercial lands, based on corrected population figures for 1993 and 2015. However, the new analysis shows that no reduction in the amount of land projected for commercial use is warranted. Therefore, the department recommends that the commission approve the city and county's submittal in response to issue #1 in the remand order.

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Issue #2 Water Withdrawal from the Chetco River

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Requirement. The requirement from the LCDC remand order is:

To satisfy Factor 5, the city and county must adopt a policy to consider alternatives to water withdrawals from the Chetco River during the later summer months and to address fish resources, under Goal 5, in the development of the public facilities plan. The city and county must coordinate this future planning work with the Oregon Department of Fish and Wildlife and the Oregon Department of Water Resources.

City and County Response. The city and county have completed a draft public facilities plan which addresses this issue. The city and county coordinated with the Oregon Department of Fish and Wildlife (ODF&W) and the Oregon Department of Water Resources (ODWR). Based on specific recommendations by ODF&W, the draft public facilities plan contains the following recommendations:

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- Implement a water conservation program which consists of graduated rate structures, building codes standards, leak detection, public education and possible mandatory water rationing;
- Evaluate water withdrawal from the Winchuck River;
- Evaluate creating a riparian zone to improve the river and estuary habitat by zoning ordinance or other means;
- Develop a basin wide long-term withdrawal management program to best utilize the resource; and
- Evaluate the Ferry Creek Reservoir for the flow augmentation (in the Chetco River) during the critical months.

To satisfy the remand requirement, the City and County have each adopted virtually identical urbanization policies that read as follows:

The city of Brookings (Curry County), in conjunction with Curry County (city of Brookings and the Harbor Water District will develop alternatives to water withdrawals from the Chetco River during the later summer months to address the needs of the fish resources in the development of the Public Facilities Plan for the City of Brookings Urban Growth Boundary. The development of the alternatives to water withdrawals will include the following items:

Surface or groundwater

- Findings that recognize that the fish resource of the Chetco River is significant; that planned population growth and development within the UGB and its planned water withdrawals are uses which conflict with the resource; and the county, city, and special district will consider alternatives and develop a program which will limited the conflicting uses to the extent that they will not negatively impact the fish resource.*
- The consideration of alternatives and development of a program to limit the conflicting uses will include an analysis and findings on the economic, social, environmental and energy consequences of the decision to allow, limit or prohibit the conflicting uses as required by Statewide Planning Goal 5.*

1-c

City of Brookings

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- C. The program to limit the conflicting uses will specifically state how the reduction in water withdrawal from the Chetco River will be attained and have implementing measures with clear and objective standards. The implementing measures will be adopted as ordinances or regulations by the agencies that control water usage within the UGB.*

Objections. The following objections relating to issue #2 were submitted:

1. General concern that the Chetco River cannot provide adequate water for planned growth and fish habitat.
2. Concern that the public facilities plan will not adequately address water needs and fish resources.
3. Need for additional water storage capacity.
4. Water withdrawal issue has not been adequately addressed by the City and Harbor Water District.

Recommendations from objectors. Recommendations from the objection letters were:

1. Prohibit development within, the new UGB until development of additional water supply and storage facilities.
2. Remove the Harbor Bench area from the proposed UGB.
3. Recalculate growth rates.
4. Stronger language and a more tangible plan to be applied to city and Harbor Water District.
5. Restrictions on development in the event the plan to protect the resource cannot be implemented.

Discussion: The remand requirement calls for a policy commitment from the city and county to undertake follow-up planning work aimed at conserving fish habitat in the Chetco River. The objections and recommendations all relate to this follow-up work, rather than a deficiency in the actual policy language required by the remand order that commits the city and county to do the work.

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City of Brookings

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Conclusion: The city and county policies addressing water removal from the Chetco River satisfy the remand requirement. Therefore, the department recommends that the commission approve the city and county's submittal in response to issue #2 in the remand order.

Issue #3 Itzen and Ashcroft Findings

Requirement: The requirement from the LCDC remand is:

To satisfy Factor 6, the city and county must: delete all or portions of the 23 acre (Itzen) parcel and the 6 acre (Ashcraft) parcel from the UGB which are suitable for farm use, are necessary for or contribute to the farm use on adjacent farm lands, or are needed to buffer adjacent farm lands.

City and County Response: The city and county have adopted findings, based on information provided by the two property owners, Itzen and Ashcraft. Both property owners have provided information to substantiate their claim that their property meets none of the standards above and should be included in the UGB.

Objections: The following objections relating to issue #3 were submitted.

1. The Itzen and Ashcraft parcels meet the Goal definition of agricultural lands.
2. Allowing these parcels to development will increase urban/farm conflicts.
3. These lands are necessary for the continuation of farm use on adjacent lands.
4. Alternative crops could be grown
5. Poor management, rather than unsuitability is the cause of poor productivity.
6. Other farmers will be encouraged to take convert their farms to urban uses.

Recommendations from Objectors:

1. Remove the Itzen and Ashcraft parcels from the UGB.

Discussion: The city and county have reached a final decision based on the information provided by the two property owners as well as any other information which is placed into the record of the public hearing on this issue. Based on the information provided by the

CERTIFICATE OF SERVICE

I certify that on 12/16/04 I filed this Protest and a \$250 check by hand delivery via messenger to the Water Resources Department at the address set forth below

Dwight French
Water Rights Section
Water Resources Department
725 Summer Street NE Suite "A"
Salem, OR 97301-1271

I further certify that I served a copy of the said protest to the parties below by mailing said copies to the addresses set forth below, first-class mail, postage pre-paid, in the United States Mail from Portland Oregon on 12-16-04

Jackie Adams, Manager
Harbor Water People's Utility District
P O Box 2437
Harbor, OR 97415

Signed this 12/16/2004

Karen A Russell

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WATER RESOURCES DEPT
SALEM OREGON

STATE OF OREGON
WATER RESOURCES DEPARTMENT

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

RECEIPT # 59839

INVOICE # _____

RECEIVED FROM: Harbor Water PUD
BY: Revenue Fund

APPLICATION 6-3361/3240
PERMIT (1 file)
TRANSFER

CASH: ☐ CHECK: # ☒ 5255 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 100.00

0401 TREASURY 0417 WRD MISC CASH ACCT

0407 COPIES

OTHER: (IDENTIFY)

OTHER: (IDENTIFY)

RECEIVED
OVER THE COUNTER

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

0203 GROUND WATER

0205 TRANSFER

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

OTHER (IDENTIFY)

EXAM FEE

\$

\$

\$

EXAM FEE

\$

0202

0204

0219

0220

RECORD FEE

\$

\$

LICENSE FEE

\$

\$

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE

0210 MONITORING WELLS

OTHER (IDENTIFY)

\$

\$

CARD #

CARD #

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: 59839

DATED 5/14/03 BY: [Signature]

RECEIVED
OVER THE COUNTER

APPLICATION FOR EXTENSION OF TIME

for Quasi-Municipal and Municipal Water Use Permits

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Harbor Water People's Utility District / Jackie Adams, Manager
NAME OF ENTITY NAME OF CONTACT

P.O. Box 2437 Harbor OR 97415 541-469-3011
ADDRESS CITY STATE ZIP PHONE

owner of record, or duly authorized agent, of Application No. G3361, Permit No. G3240,
do hereby request that the time in which to:

- ☐ complete the construction of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 2000, be extended to October 1, _____, (completed)*

and/or the time in which to:

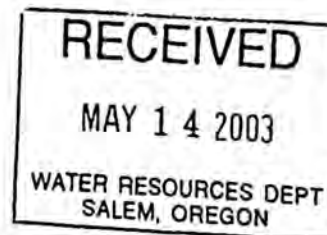
- ☒ accomplish beneficial use of water to the full extent under the terms of the permit, which time now expires on October 1, 2000, be extended to October 1, 2008. **

NOTE:

Permit extensions for Quasi-Municipal and Municipal permits are evaluated under OAR Chapter 690, Division 315. Except under limited circumstances, upon issuance of an order approving an extension, you will be required to submit within 3 years a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86. Diversion of water beyond the maximum rate currently diverted under the permit shall only be authorized upon approval of your WMCP. The rules may be viewed at: "www.wrd.state.or.us/law/oar1999.shtml"

Attached are instructions to assist you in completing the information on the permit extension application form. Oregon Water Law and Administrative Rules require this information to be considered by the Water Resources Department when reviewing a Quasi-Municipal or Municipal water use permit extension application. For each permit, a separate extension application must be submitted. All items must be addressed or the application may be returned. Please feel free to provide the Department with any additional information or evidence that will aid us in making our decision. Please use additional sheets of paper as needed to fully respond to the questions.

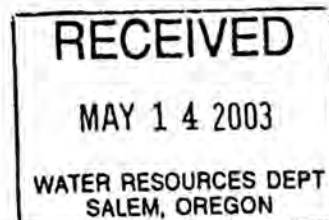
After reviewing the application form and the instruction sheet, if you have any questions, you may contact the Department at (503) 378-3739, and request assistance from the Water Rights Division, permit extensions personnel.



In order for the Department to evaluate your extension of time request for a Quasi-Municipal or Municipal water use permit, please provide the following: (See attached sheet.)

1. The appropriate fee, as specified under ORS 536.050.
2. For Quasi-Municipal water use permits, evidence of the actions taken to begin actual construction on the project, if required under the applicable statute.
3. Evidence of actions taken to develop the right within the permitted time period and/or time period of the previous extension.
4. Evidence of compliance with conditions contained in the permit and any previous extension(s). If any of the conditions have not been satisfied, please explain the reason(s) why.
5. Evidence of the maximum rate of water diverted to date, if any, for Quasi-Municipal or Municipal purposes.
6. An estimate of the population served under this permit and a description of the methodology(ies) used to make this estimate.
7. A description of the financial expenditures made toward completion of the water development.
8. An estimate of the cost necessary to complete the water development.
9. A summary of any events that delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project that have significantly delayed completion of construction or perfection of the right.
10. An estimated demand projection and a description of the methodology(ies) used for the subject water right permit, considering the other water rights and contracts held by the municipal or quasi-municipal water use permit holder, and a date by which the water development is anticipated to be completed and water put to full beneficial use.

Extension requests for greater than 50 years must include documentation that the demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder.



11. A summary of the plan and schedule to complete construction and/or perfect the water right.
12. Justification for the time requested to complete the project and/or apply the water to full beneficial use.
13. Any other information you wish the Department to consider while evaluating the extension of time application.

I am the permittee, or have authorization from the permittee, to apply for an extension of time under this permit. I certify that the information I have provided in this application is true and correct to the best of my knowledge.

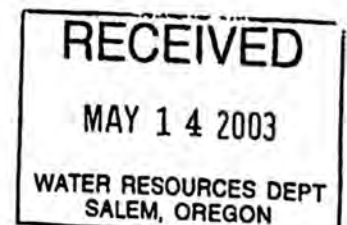
Bill Ryan
Signature

5/12/03
Date

MAIL COMPLETED APPLICATION and STATUTORY FEE (under ORS 536.050) TO:

WATER RIGHT PERMIT EXTENSIONS
WATER RESOURCES DEPARTMENT
158 - 12th STREET NE
SALEM, OREGON 97301-4172

revised: December 12, 2002



*The diversion works (Ranney Collector) was completed in 1982. The actual point of diversion ended up being approximately 800 feet north and 1000 feet east from the southwest corner of Section 34, T40S, R13W, Willamette Meridian.

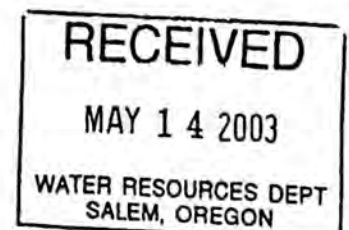
**At presently estimated growth and water use rates, beneficial use to the full extent under the terms of the permit will occur in approximately 2006. At that time, the certification process (a Claim of Beneficial Use and Final Proof Survey Map) will be completed.

***This ground water right is essentially a duplicate of Permit No. S31365 (Application No. S41825). This ground water right appears to have been issued because the Ranney Collector is considered a well by the Oregon State Health Department for water treatment requirements and therefore, a ground water right was needed instead of the surface water right (Permit No. S31365) originally issued.

Both of these water rights need to be continued because, if future water quality monitoring by the Harbor PUD (required by the Oregon State Health Department), shows indications of surface water influence on the ground water, the source of water would be considered surface water.

Since the two permits (S31365 and G3240) are essentially for the same water, the information that is presented for the extension of No. S31365 is also applicable for this one.

A check for the \$100 fee is attached.



See also
Explanation
for Appl G-3361
(Permit G-3240)
dated 5-14-03

Copy from Ed
Appl for File # S-41825
(Permit # S-36365)

*The diversion works (Ranney Collector) was completed in 1982. The actual point of diversion ended up being approximately 800 feet north and 1000 feet east from the southwest corner of Section 34, T40S, R13W, Willamette Meridian.

- per
Bill
Ryan
- engineer

**At presently estimated growth and water use rates, beneficial use to the full extent under the terms of the permit will occur in approximately 2006. At that time, the certification process (a Claim of Beneficial Use and Final Proof Survey Map) will be completed.

1. Check for the \$100 fee is attached.
2. The Ranney Collector was constructed in 1982. The collector has six "arms" which radiate out from the central caisson (wet well) in the bed of the Chetco River. The "arms" are each 10 inches in diameter with horizontal well screens approximately 70 feet long. The capacity of the collector is estimated to be over 11 MGD (17 CFS). This capacity would essentially utilize all the Harbor PUD's existing water rights. (Attachment 1 indicates the final pay estimate for the Ranney Collector.)

At this time, 4 - 75 horsepower vertical turbine pumps are installed over the collector pulling water from the wet well. Each pump is capable of pumping 800 GPM for a maximum capacity of 7.1 CFS. More and/or larger pumps will be added when demands increase beyond this existing capacity.

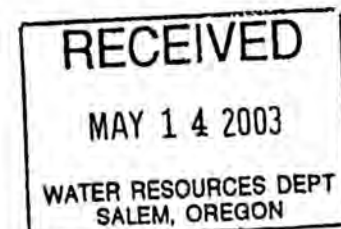
3. A Water Master Plan including a Water Management and Conservation Plan was completed for the Harbor PUD in December 2000. The plan projects water needs and details improvements necessary to supply water within the existing Harbor PUD through 2020. Water needs are also estimated through 2050. A copy of this Water System Master Plan is being submitted to Doug Parrow at the Water Resources Department in Salem under OAR 690-086 and 315, Water Management and Conservation Plans and Water Right Permit Extensions.

The Water Master Plan projects needs for the present district boundaries only (approximately 2467 acres) and not the surrounding area which contains a major part of the City of Brookings expanded Urban Growth Boundary (UGB). (See Pages 2-7 and 2-8 attached as 3A and 3B.) The growth within the present district boundaries is projected to need the following amounts of water based on maximum daily usage (MGD / CFS) and a 1% or 3% growth rate per year:

District Water Needs (MGD / CFS)

Year	1% Growth (Population)	3% Growth (Population)
2010	2.01 / 3.11 (4200)	2.4 / 3.7 (5200)
2020	2.22 / 3.4 (4600)	3.3 / 5.1 (6900)
2050	2.99 / 4.5 (6500)	5.7 / 8.9 (12000)

Past growth rates in the district and other optimistic projections indicate a 3% growth rate is likely. (See Pages 2-7 and 2-8 attached as 3A and 3B.)

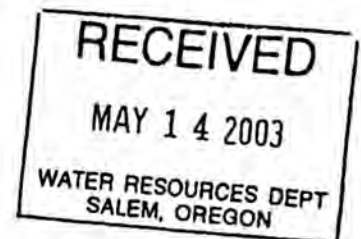


Since the 2000 Water Master Plan was completed, the City of Brookings and the Harbor PUD have agreed that the Harbor PUD will serve water to the expanded Brookings UGB south of the Chetco River, and the City of Brookings will serve their expanded UGB north of the Chetco River with water. This situation was evaluated in a study titled Public Facilities Plan for Urban Growth Expansion - Brookings and Harbor Study Areas, prepared by W&H Pacific, Inc. in 1999; Phone (503-626-0455). This expansion of Harbor's district boundaries will add approximately 1780 acres and an estimated 2800 people by 2015 (Page 13). Assuming a growth rate of around 5% for this expanded area the Harbor PUD additional water needs would be as shown below. This area has only a few dwellings on individual wells now so even a 5% growth rate may be on the low side.

Two major land owners/developers having over 800 acres in the expanded UGB area have already approached the Harbor PUD for service extensions so they can start subdividing and building.

Harbor Additional Water Needs

Year	(MGD / CFS)	(Population)
2000	On Individual Wells	(50)
2015	1.36 / 2.10	(2800)
2020	1.87 / 2.9	(3500)*
2050	3.69 / 5.6	(7600)*



*These projections assume additional land will be added to the Brookings UGB and that the Harbor PUD will expand to serve it after 2020. There is considerably more buildable, privately owned land in this area (the Harbor Hills). It is likely, however, that the growth rate will drop below 5% after 2020.

In summation, the Harbor PUD's total water needs are projected to be as follows:

Year	Harbor PUD Total Water Needs (CFS)
2010	4.4 to 5.0
2020	6.3 to 8.0
2050	10.1 to 14.5

4. Construction was to have begun by December 1967. The intake facility was placed in operation, a transmission main to carry the water to the district was constructed, and the 500,000 gallon Hall Way II storage tank was placed in operation in 1966. The system was in operation before December of 1967.

The time limit to complete construction and apply the water was initially 10/1/68 and 10/1/69, respectively. These were later extended to 10/1/95 and this request is to extend them to 10/1/2008. It is anticipated that, with the estimated growth and water use rates, "beneficial use to the full extent" under the terms of the permit will occur around 2006 and at that time the "Claim of Beneficial Use" and "Final Proof Survey" will be

completed. As discussed in Section 2, the construction of the intake facility to fully utilize this water right was completed in 1982. Section 3 presented the population and water use projections by which these dates were estimated.

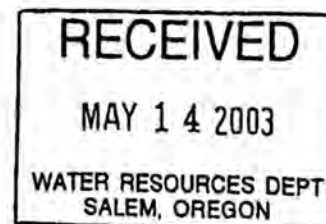
5. The maximum rate of water diverted to date under this water right was 1.86 CFS on 9/21/02. See attachment 2. See Section 3 for projections of future flows.
6. The present population served by this permit is about 3900. The population which will be served by this water right when it is fully developed should be about 4700. (See Section 3.)
7. The water source is a Ranney Collector in the Chetco River. The collector was constructed in 1982 at a cost of about \$334,500.00. A surface water intake was utilized between 1968 and 1982. It was abandoned when the more reliable collector was installed.

The transmission line, water storage tanks, distribution lines, and other components of the system are continually being improved or replaced as the need arises.

8. Most of the infrastructure is existing (already constructed) to fully use this water right and put this water to beneficial use. An additional 250 thousand gallon storage tank may be added in the southern part of the district to balance the system's reserve components and ease operation (see Page 10-5 in the Harbor PUD Water System Master Plan). The estimated cost of this tank would be \$584,000.
9. There were no events that delayed the completion of the full utilization of this water right. Population growth has not yet occurred to utilize the complete water right.
10. The analysis indicating when the needed water will equal the 3.5 CFS of this water right was presented in Section 3. The analysis considered population growth within the Harbor PUD boundaries (from the Harbor PUD Water System Master Plan) and the increased Harbor PUD service area brought on by the Brookings UGB expansion and its relevant planned land use (from the "Public Facilities Plan for Urban Growth Expansion - Brookings and Harbor Study Areas").
11. The schedule to complete the use of the water and perfect the total water right is as follows:

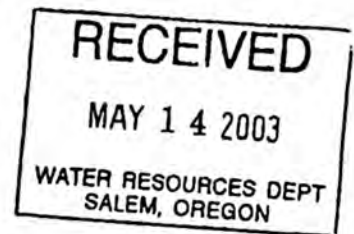
Year	Estimated Water Use
2004	3.3 CFS
2006	3.5 CFS (Water Right Amt.)
2010	4.6 CFS

Thus, the process to certify this water right can probably be initiated in 2006 and completed by 2007.



12. The justification for the extension to apply the water to full beneficial use was presented under the previous sections. Construction of the facilities to divert and appropriate the water was essentially completed several years ago.
13. With respect to other water rights on the Chetco River that could be effected, the Water Master Plan indicated that there are only two water rights in the area that predate this water right:
 - a. An instream right of 80 CFS in July, August, and September (May 1964). However, this right applies to the Chetco upstream where the North Fork enters and not to the vicinity of the Harbor PUD right.
 - b. A municipal water right of 4 CFS (City of Brookings) with a priority date of 1961. This water right is also upstream of the Harbor PUD diversion.

The Brookings water right could have an effect on this one, but this one should not effect either of the above water rights.



UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATION

PARTIAL PAYMENT ESTIMATE
(Number 4 Final)

FORM F-100 (REV. 1-70)

ATTACHMENT

1. This form is to be filled out with periodic estimates of the work completed and cost of materials. Number of estimates required: 3. Time to complete: 30 min. No further monies or other benefits may be paid out under this program unless this report is completed and filed as required by existing law and regulations (7 C.F.R. Part 1924).

Name of Contractor: Harborway Method Western Corporation
Name of Owner (Association): Harbor Rural Water District

Date of Completion: March 30, 1982
Amount of Contract: Original \$ 330,000.00
Revised \$ 334,500.00

Date of Estimate: From March 1, 1982 To June 1, 1982

Description of Job: Construction of a Water Supply Collector

Item	Contract Items			This Period		Total To Date	
	Quantity	Unit	Unit Price	Quantity	Amount	Quantity	Amount
1.	1	Lump Sum	330,000.00	1.5%	\$ 4,950.00	100%	\$330,000.00
C.O. #1	3.75	L.F.	1,200.00	0	-0-	3.75	4,500.00
TOTAL AMOUNT EARNED					\$ 4,950.00		\$334,500.00

RECEIVED
MAY 14 2003
WATER RESOURCES DEPT
SALEM, OREGON

Show Original Items and Change Orders Separately.

FD-100 (Rev. 1-70)

ATTACHMENT 2

9-01

time	gal meter	day total	hour 1	hour 2	hour 3	hour 4	total hour	turb.	cl
11:10	361.340.000	4,378.000.000	540	112	324	147.574	191.251	23	10
11:20	361.340.000	8,009.000			147.747	191.265	185	10	13
11:30	361.340.000	11,622.000			147.807	191.433	233	110	13
11:40	361.340.000	15,339.000			147.847	191.536	190	16	13
11:50	361.340.000	19,148.000			147.917	191.690	167	16	13
12:00	361.340.000	22,958.000			147.939	191.854	224	1	13
12:10	361.340.000	26,768.000			148.009	191.958	100	1	13
12:20	361.340.000	30,578.000			148.079	192.121	19.2	1	13
12:30	361.340.000	34,388.000			148.149	192.275	17.5	1	13
12:40	361.340.000	38,198.000			148.219	192.438	20.5	16	13
12:50	361.340.000	42,008.000			148.289	192.601	17.2	11	13
13:00	361.340.000	45,818.000			148.359	192.764	18.4	10	13
13:10	361.340.000	49,628.000			148.429	192.927	19.1	10	13
13:20	361.340.000	53,438.000			148.499	193.090	19.8	10	13
13:30	361.340.000	57,248.000			148.569	193.253	20.5	16	13
13:40	361.340.000	61,058.000			148.639	193.416	21.2	11	13
13:50	361.340.000	64,868.000			148.709	193.579	21.9	10	13
14:00	361.340.000	68,678.000			148.779	193.742	22.6	10	13
14:10	361.340.000	72,488.000			148.849	193.905	23.3	10	13
14:20	361.340.000	76,298.000			148.919	194.068	24.0	10	13
14:30	361.340.000	80,108.000			148.989	194.231	24.7	10	13
14:40	361.340.000	83,918.000			149.059	194.394	25.4	10	13
14:50	361.340.000	87,728.000			149.129	194.557	26.1	10	13
15:00	361.340.000	91,538.000			149.199	194.720	26.8	10	13
15:10	361.340.000	95,348.000			149.269	194.883	27.5	10	13
15:20	361.340.000	99,158.000			149.339	195.046	28.2	10	13
15:30	361.340.000	102,968.000			149.409	195.209	28.9	10	13
15:40	361.340.000	106,778.000			149.479	195.372	29.6	10	13
15:50	361.340.000	110,588.000			149.549	195.535	30.3	10	13
16:00	361.340.000	114,398.000			149.619	195.698	31.0	10	13
16:10	361.340.000	118,208.000			149.689	195.861	31.7	10	13
16:20	361.340.000	122,018.000			149.759	196.024	32.4	10	13
16:30	361.340.000	125,828.000			149.829	196.187	33.1	10	13
16:40	361.340.000	129,638.000			149.899	196.350	33.8	10	13
16:50	361.340.000	133,448.000			149.969	196.513	34.5	10	13
17:00	361.340.000	137,258.000			150.039	196.676	35.2	10	13
17:10	361.340.000	141,068.000			150.109	196.839	35.9	10	13
17:20	361.340.000	144,878.000			150.179	197.002	36.6	10	13
17:30	361.340.000	148,688.000			150.249	197.165	37.3	10	13
17:40	361.340.000	152,498.000			150.319	197.328	38.0	10	13
17:50	361.340.000	156,308.000			150.389	197.491	38.7	10	13
18:00	361.340.000	160,118.000			150.459	197.654	39.4	10	13
18:10	361.340.000	163,928.000			150.529	197.817	40.1	10	13
18:20	361.340.000	167,738.000			150.599	197.980	40.8	10	13
18:30	361.340.000	171,548.000			150.669	198.143	41.5	10	13
18:40	361.340.000	175,358.000			150.739	198.306	42.2	10	13
18:50	361.340.000	179,168.000			150.809	198.469	42.9	10	13
19:00	361.340.000	182,978.000			150.879	198.632	43.6	10	13
19:10	361.340.000	186,788.000			150.949	198.795	44.3	10	13
19:20	361.340.000	190,598.000			151.019	198.958	45.0	10	13
19:30	361.340.000	194,408.000			151.089	199.121	45.7	10	13
19:40	361.340.000	198,218.000			151.159	199.284	46.4	10	13
19:50	361.340.000	202,028.000			151.229	199.447	47.1	10	13
20:00	361.340.000	205,838.000			151.299	199.610	47.8	10	13
20:10	361.340.000	209,648.000			151.369	199.773	48.5	10	13
20:20	361.340.000	213,458.000			151.439	199.936	49.2	10	13
20:30	361.340.000	217,268.000			151.509	200.099	49.9	10	13
20:40	361.340.000	221,078.000			151.579	200.262	50.6	10	13
20:50	361.340.000	224,888.000			151.649	200.425	51.3	10	13
21:00	361.340.000	228,698.000			151.719	200.588	52.0	10	13
21:10	361.340.000	232,508.000			151.789	200.751	52.7	10	13
21:20	361.340.000	236,318.000			151.859	200.914	53.4	10	13
21:30	361.340.000	240,128.000			151.929	201.077	54.1	10	13
21:40	361.340.000	243,938.000			151.999	201.240	54.8	10	13
21:50	361.340.000	247,748.000			152.069	201.403	55.5	10	13
22:00	361.340.000	251,558.000			152.139	201.566	56.2	10	13
22:10	361.340.000	255,368.000			152.209	201.729	56.9	10	13
22:20	361.340.000	259,178.000			152.279	201.892	57.6	10	13
22:30	361.340.000	262,988.000			152.349	202.055	58.3	10	13
22:40	361.340.000	266,798.000			152.419	202.218	59.0	10	13
22:50	361.340.000	270,608.000			152.489	202.381	59.7	10	13
23:00	361.340.000	274,418.000			152.559	202.544	60.4	10	13
23:10	361.340.000	278,228.000			152.629	202.707	61.1	10	13
23:20	361.340.000	282,038.000			152.699	202.870	61.8	10	13
23:30	361.340.000	285,848.000			152.769	203.033	62.5	10	13
23:40	361.340.000	289,658.000			152.839	203.196	63.2	10	13
23:50	361.340.000	293,468.000			152.909	203.359	63.9	10	13
00:00	361.340.000	297,278.000			152.979	203.522	64.6	10	13
00:10	361.340.000	301,088.000			153.049	203.685	65.3	10	13
00:20	361.340.000	304,898.000			153.119	203.848	66.0	10	13
00:30	361.340.000	308,708.000			153.189	204.011	66.7	10	13
00:40	361.340.000	312,518.000			153.259	204.174	67.4	10	13
00:50	361.340.000	316,328.000			153.329	204.337	68.1	10	13
01:00	361.340.000	320,138.000			153.399	204.500	68.8	10	13
01:10	361.340.000	323,948.000			153.469	204.663	69.5	10	13
01:20	361.340.000	327,758.000			153.539	204.826	70.2	10	13
01:30	361.340.000	331,568.000			153.609	204.989	70.9	10	13
01:40	361.340.000	335,378.000			153.679	205.152	71.6	10	13
01:50	361.340.000	339,188.000			153.749	205.315	72.3	10	13
02:00	361.340.000	342,998.000			153.819	205.478	73.0	10	13
02:10	361.340.000	346,808.000			153.889	205.641	73.7	10	13
02:20	361.340.000	350,618.000			153.959	205.804	74.4	10	13
02:30	361.340.000	354,428.000			154.029	205.967	75.1	10	13
02:40	361.340.000	358,238.000			154.099	206.130	75.8	10	13
02:50	361.340.000	362,048.000			154.169	206.293	76.5	10	13
03:00	361.340.000	365,858.000			154.239	206.456	77.2	10	13
03:10	361.340.000	369,668.000			154.309	206.619	77.9	10	13
03:20	361.340.000	373,478.000			154.379	206.782	78.6	10	13
03:30	361.340.000	377,288.000			154.449	206.945	79.3	10	13
03:40	361.340.000	381,098.000			154.519	207.108	80.0	10	13
03:50	361.340.000	384,908.000			154.589	207.271	80.7	10	13
04:00	361.340.000	388,718.000			154.659	207.434	81.4	10	13
04:10	361.340.000	392,528.000			154.729	207.597	82.1	10	13
04:20	361.340.000	396,338.000			154.799	207.760	82.8	10	13
04:30	361.340.000	400,148.000			154.869	207.923	83.5	10	13
04:40	361.340.000	403,958.000			154.939	208.086	84.2	10	13
04:50	361.340.000	407,768.000			155.009	208.249	84.9	10	13
05:00	361.340.000	411,578.000			155.079	208.412	85.6	10	13
05:10	361.340.000	415,388.000			155.149	208.575	86.3	10	13
05:20	361.340.000	419,198.000			155.219	208.738	87.0	10	13
05:30	361.340.000	423,008.000			155.289	208.901	87.7	10	13
05:40	361.340.000	426,818.000			155.359	209.064	88.4	10	13
05:50	361.340.000	430,628.000			155.429	209.227	89.1	10	13
06:00	361.340.000	434,438.000			155.499	209.390	89.8	10	13
06:10	361.340.000	438,248.000			155.569	209.553	90.5	10	13
06:20	361.340.000	442,058.000			155.639	209.716	91.2	10	13
06:30	361.340.000	445,868.000			155.709	209.879	91.9	10	13
06:40	361.340.000	449,678.000			155.779	210.042	92.6	10	13
06:50	361.340.000	453,488.000			155.849				

To determine the residential population, one must estimate the average number of persons living in each household. Based on input from District personnel and experience with similar communities, it was assumed that, on the average, at least two persons reside in each residential dwelling within the District.

By multiplying the number of residential dwellings by the average number of persons within each dwelling, $(1,800 \times 2)$, a total residential population of 3,600 is estimated. However, due to previous estimates, input from District personnel, and a significant tourist population within the District, the equivalent population basis for this Master Plan was estimated to be 3,800 persons for the year 2,000 for the District service population.

Projected Population

Without a certified population database, it is difficult to project future population on the basis of past trends. A 1995 planning study for the greater Brooking area, suggested that the area south of the Chetco River (Harbor) would grow at a rate of 3 percent per year. In comparison, during the 1990's, Curry County's population grew at a rate of 1.5 percent per year. It is expected that the County will continue to grow at this modest rate with much of the population growth occurring in the Brookings area. Based on these documents, a growth rate as high as 3% would be a reasonable basis for projecting population growth in the Harbor water service district.

According to District personnel, however, much of the available property within the District boundaries is already developed. New development has slowed and it is believed that the District is approaching reaches buildout conditions. Further development is expected to occur in expansion areas outside of the District boundaries as new development utilizes available lands in the expanded City of Brookings urban growth boundary. Since the density of development has not been established, the analysis of development trends outside of the District boundaries was not included in the scope of this study.

For the purposes of this Master Plan, it is estimated that the District will continue to grow within its current boundaries at a modest 1.0 percent growth rate during the planning period. This modest growth rate equates to the addition of approximately 20 equivalent dwellings within the District each year. A summary of the projected population is provided in Table 2.3.1 below.

Table 2.3.1 – Projected Population Estimates

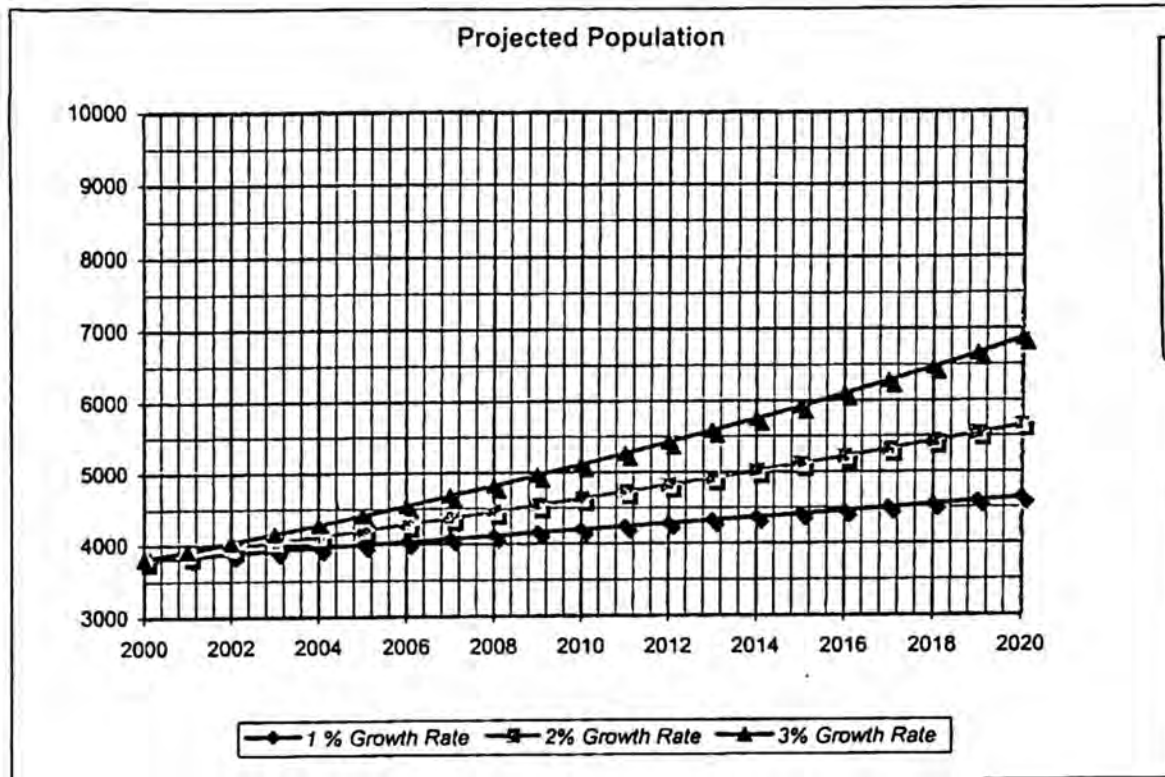
Year	Projected Population
2000	3,800
2005	3,994
2010	4,198
2015	4,412
2020	4,637
2050	6,250

* Based on 1% growth rate inside current boundaries.

If the District grows at a greater rate, the demand for water within the system will be higher. If development pressures increase during the planning period resulting in rapid population growth within the District, the population projections and system analyses should be reviewed to ensure the District's water system has adequate capacity.

For the purposes of flexible planning, additional population projections were developed for two and three percent growth rates. For comparison purposes, the higher growth rates were plotted with the 1.0 percent growth rate in Figure 2.3.1.





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 WATER RESOURCES DEPT
 SALEM, OREGON

Figure 2.3.1– Growth and Projected Population

2.4 Land Use Characteristics

Since the Harbor Water PUD is not an incorporated city, it is not responsible to undertake common community planning efforts. Consequently, a comprehensive plan is not available describing land use characteristics and future land use requirements. The County Planning office in Gold Beach coordinates all public planning.

Though the District is not an incorporated city, it includes the same types of land use found in any city on the Oregon coast. A brief description of each of the common land-use categories and a description of their application in the District is provided below:

Residential

Two types of residential development is typically on a lot by basis. Residential housing can be found throughout the District. The first type of residential housing are large homes constructed on large lots. These single family units are typical along Ocean View Drive and in the Harbor Hills. The second type of residential housing are trailer parks and manufactured homes spread throughout the communities.

Commercial

The majority of commercial establishments are located along the Highway 101 corridor passing through the center of the District and along Boat Basin Drive near the Port of Brookings - Harbor. Commercial development consists of many tourist oriented shops, restaurants, grocery stores and a shopping center. Various other commercial establishments are remotely located in other areas of the District.

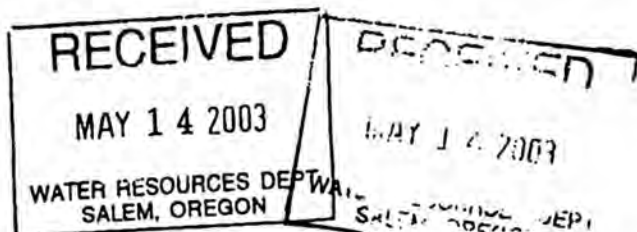


YOUR PROFESSIONAL ENGINEERING TEAM SINCE 1957

P 541-772-7115 F 541-779-4079 1120 EAST JACKSON PO BOX 490 MILFORD OR 97501
EMAIL: info@marquess.com WEB: www.marquess.com

May 8, 2003

Lisa Juul
Water Resources Department
158-12th Street NE
Salem, Oregon 97301-4172



Dear Lisa:

RECEIVED
OVER THE COUNTER

Attached are "Application for Extension of Time" forms for the Harbor People's Utility District's four quasi-municipal and municipal water use permits. They include Permits Nos. S31365, G3240, G9438, and S43837.

We have also submitted our Water System Master Plan with our Water Management and Conservation Plan to Doug Parrow. This document is referenced in our "Application for Extension of Time."

The extension requests are in accordance with the new rules recently enacted (OAR 690-315-0070 through 690-315-0100).

The as-built drawings for the existing intake facility (Ranney Collector) are attached.

If you have questions, please contact Bill Ryan, P.E., water resources consultant, at 541-826-8171.

Sincerely,

MARQUESS & ASSOCIATES, INC.

Bill Ryan
Bill Ryan, Ph.D., P.E.

BR/pma
Attachments

July 19, 2005

Lisa Juul
Water Resources Department
North Mall Office Building
725 Summer Street, N.E., Suite A
Salem, OR 97301-1271

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JUL 22 2005

WATER RESOURCES DEPT
SALEM, OREGON

RE: Pending Application for Extension of Time
Water Right Applications #G-3361 (Permit #G-3240) and #S-41825
(Permit #S-31365)
MAI Job No. 01-8029

Dear Lisa:

This letter is to correct the information in our 05-08-03 Application for Extension of Time for the above referenced water rights held by Harbor Rural Water District. In discussions with John Unger of your office about our incorrect use of maximum daily use rates instead of the maximum instantaneous rate of water diverted in the 05-08-03 request, he asked us to correct the figures in this application also.

- The requests for assignment to change the permit holder from the Harbor Rural Water District to their current name, "Harbor Water People's Utility District" (HWPUD) have been submitted to WRD by HWPUD. The requests for assignment cover all four of the Harbor Water PUD Water Rights: #G-9502^c (Permit #G-9438), #S-58045 (Permit #S-43837), #S-41825 (Permit #S-31365), and #G-3361 (Permit #G-3240).
c←
- The maximum instantaneous rate of water diverted for beneficial quasi-municipal or municipal uses has occurred several times, especially during July, August, and September. The actual amount was determined using the hour meters on the pumps in the intake facility. There are four pumps which pump 1.95 cfs each. When one pump cannot keep up with the demand, a second pump starts up also. There have been numerous times in the last two summers where two pumps ran at the same time for four- to six-hour periods. That is a diversion rate of 3.9 cfs. Attachment #1 is a sworn affidavit from Dave VanCleave, the Operator.

My response to Question 5 in the request for extension stated that the maximum daily use occurred 09-21-02 and was 1.86 cfs. However, the maximum instantaneous rate of water diverted was 3.9 cfs (two pumps pumping at several times during the summer of 2003 and 2004). Thus, the 3.5 cfs of water under these permits (#G-3240 and #S- 31365) has been diverted and put to beneficial use several times over the last two years and the process to perfect these water rights can be initiated.

- The HWPUD currently serves approximately 3,500 people with 1,700 services. These numbers are considerably higher in the summer because of visitors in the several mobile and motor home parks.
- The current instantaneous peak water demands are as follows:

Peak day water demand is about 1.54 million gallons.

Peak season demand (July, August, and September) is estimated to be 100 million gallons.

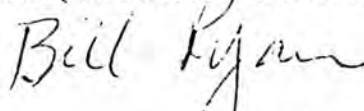
Annual average demand was measured at just over 298 million gallons (2004).

- The beneficial use of water to the full extent under the terms of these permits has occurred and the process to perfect them can be started. The existing permits expired on 10-01-95 (for #S-31365) and 10-01-00 (for #G-3240), so I would imagine they need to be extended to 10-01-07 to allow time for the perfection.

I hope this clarifies our application for an Extension of Time for Water Right Applications #G3361 (Permit #G-3240) and #S-4185 (Permit #S-31365) as John requested. If you or John have questions, please contact Bill Ryan, P.E., water resources consultant at 541-826-8171.

Sincerely,

MARQUESS & ASSOCIATES, INC.



William L. Ryan, Ph.D., P.E.

WLR/pma
Attachment
cc: Harbor Water PUD
cas 01-8029Juul letter 3

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JUL 22 2005

WATER RESOURCES DEPT
SALEM, OREGON

Certification Form

CWS name: Harbor Water P.U.D.

The community water system named above hereby confirms that on the date July 5, 6, 7, & 11 of 2004 the two intake pumps were running for at least 5 hours per day supplying 3.9 cfs of water to the community of Harbor.

Certified by:

David W. VanCleave

David W. VanCleave

SUBSCRIBED AND SWORN to before me this 16 of June, 2005



Michele Bullock

Notary Public for Oregon
My Commission Expires: Jan 8, 2008
State of Oregon
County of Curry

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JUL 22 2005

**WATER RESOURCES DEPT
SALEM, OREGON**

**Oregon Water Resources Department
Water Rights Division**

Application for Extension of Time

In the Matter of the Application	)	
for an Extension of Time for	)	
Permit #G-3240, Water Right	)	PROPOSED FINAL ORDER
Application #G-3361	)	
(Harbor Rural Water District)	)	

Permit Information

Application File #G-3361 / Permit #G-3240

Basin: #17 - South Coast / Watermaster District: #19

Date of Priority: January 28, 1966

Authorized Use of Water

Source of Water:	One Well within the Chetco River Basin
Purpose or Use:	Domestic Water Supply
Maximum Rate:	3.5 cfs (cubic feet per second) - The diversion point herein described is identical to that under Permit #S-31365 and the total quantity of water withdrawn under this permit together with the quantity under Permit #S-31365 shall not exceed 3.5 cfs.

**This Extension of Time request is being processed in accordance
with Oregon Administrative Rule Chapter 690, Division 315.**

Please read this Proposed Final Order in its entirety.

This Proposed Final Order applies only to Permit #G-3240, water right Application #G-3361. A copy of Permit #G-3240 is enclosed as Attachment 1.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- grant the extension for complete construction of the water system from October 1, 2000, to October 1, 2008;
- grant the extension for complete application of water from October 1, 2000, to October 1, 2008.

AUTHORITY

ORS 537.230 and ORS 537.630(1) provide in pertinent part that the Water Resources Department shall, for good cause shown, order an extension of time within which: irrigation or other works shall be completed; the well or other means of developing and securing ground water shall be completed; or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5).

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit #G-3240 was granted by the Water Resources Department on February 23, 1967. The permit authorizes the use of up to 3.5 cfs of water from one well, within the Chetco River Basin, for domestic water supply. The permit specified that construction of the water system was to be completed by October 1, 1968, and that complete application of water was to be made on or before October 1, 1969.
2. Six prior extensions have been granted for Permit #G-3240. The most recent extended the time in which to complete construction of the water system and the time in which to accomplish full beneficial use of water under the terms of Permit #G-3240 from October 1, 1995, to October 1, 2000.
3. The permit holder submitted an "Application for Extension of Time" to the Department on May 14, 2003, requesting the time in which to accomplish beneficial use of water to the full extent under the terms of Permit #G-3240 be extended from October 1, 2000, to October 1, 2008. The extension application form clearly suggests that construction is not complete. The Department, therefore, determined that the permit holder's intent was to also request the time in which to complete construction of the water system under Permit #G-3240 be extended from October 1, 2000, to October 1, 2008.
4. Notification of the permit holder's extension of time request for Permit #G-3240 was published on the Department's Public Notice dated June 17, 2003. No public comment on the extension application was received.

Review Criteria [OAR 690-315-0040(1)(2)]

As set forth under OAR 690-315-0040(1)(2), the time limits to complete construction or to apply the water to a beneficial use may be extended upon showing of good cause for the untimely completion. This determination shall consider the applicable requirements of ORS 537.230, 537.248¹, 537.630 and 539.010(5).

Other Governmental Requirements [ORS 537.230(2)]

5. Delay in the development of this project was not caused by any other governmental requirements.

¹ ORS 537.248 applies to reservoir permits only.

Start of Construction [ORS 537.630]

6. Construction of the well and water system began within the time specified in the permit, being February 23, 1968.

Financial Investment [ORS 539.010(5)]

7. As of May 14, 2003, the total amount invested by the permit holder into the project is unknown, although, in 1982 the permit holder constructed a Ranney collector well at a cost of \$334,500. An additional 250 thousand gallon storage tank may be added in the future at a cost of \$584,000.

Reasonable Diligence and Good Faith of the Appropriator [ORS 537.230(1), 537.630(1) and 539.010(5)]

Reasonable diligence during the permit period constitutes a continuing test of whether and under what conditions to grant an extension [ORS 537.260, OAR 690-315-0040(3)].

In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction

8. The following construction was completed within the time allowed in the permit or previous extension:
 - a. During the last extension period, being from October 1, 1995, to October 1, 2000, the permit holder completed a Water Master Plan including a Water Management and Conservation Plan.

Beneficial Use of Water

9. The following beneficial use was made of the water during the permit or previous extension time limits:
 - a. Since the issuance of Permit #G-3240 on February 23, 1967, a maximum rate of 2.53 cfs of the permitted 3.5 cfs of water has been appropriated from the well for domestic use.
 - b. Delay of full beneficial use of water under Permit #G-3240 was due to a slow rate of population growth which has not yet presented a demand for the full permitted quantity of water.

Compliance with Conditions

10. The water right permit holder's conformance with the permit or previous extension conditions.

- a. The record does not raise concerns about the permit holder's compliance with conditions.

Financial Investments

- 11. Financial investments made toward developing the beneficial water use.
 - a. As of May 14, 2003, the total amount invested by the permit holder into the project is unknown, although, in 1982 the permit holder constructed a Ranney collector well at a cost of \$334,500. An additional 250 thousand gallon storage tank may be added in the future at a cost of \$584,000.

The Market and Present Demands for Water [ORS 539.010(5) and OAR 690-315-0040(4)]

In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- 12. The amount of water available to satisfy other affected water rights and scenic waterway flows.
 - a. The Department determined on July 3, 2003, that the permitted source of water (Ranney collector well) is directly connected to the Chetco River resulting in the potential for substantial interference with surface water.
 - b. The permitted point of appropriation (the well), authorized under Permit #G-3240, is not located within the boundaries of any designated ground water limited area.
 - c. The permitted point of appropriation (the well), authorized under Permit #G-3240, is not located within or above the designated boundaries of any state scenic waterway.
- 13. Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).
 - a. The permitted point of appropriation, authorized under Permit #G-3240, is located within an area of the Chetco River Basin which has been identified by the Oregon Department of Fish and Wildlife as a "highest" needs ranking area for streamflow restoration for fish. Additionally, the Chetco River has been designated by the Oregon Department of Environmental Quality as a water quality limited stream.

- b. The permitted point of appropriation, authorized under Permit #G-3240, is not located within a designated reach of a federal wild and scenic river.
- 14. The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.
 - a. The permitted well is located within a designated sensitive, threatened or endangered species area for aquatic species utilizing surface water resources, as identified by the Oregon Department of Fish and Wildlife.
- 15. Economic investment in the project to date.
 - a. As of May 14, 2003, the total amount invested by the permit holder into the project is unknown, although, in 1982 the permit holder constructed a Ranney collector well at a cost of \$334,500. An additional 250 thousand gallon storage tank may be added in the future at a cost of \$584,000.
- 16. Other economic interests dependent on completion of the project.
 - a. None have been identified.
- 17. Other factors relevant to the determination of the market and present demand for water and power.
 - a. None have been identified.

Fair Return Upon Investment [ORS 539.010(5)]

- 18. Use and income from the permitted water development already results in reasonable returns upon the investment made to date.

Duration of Extension [OAR 690-315-0040(1)(c), ORS 539.010(5)]

As set forth under OAR 690-315-0040(1)(c), time extensions granted shall be for the reasonable time period necessary to complete construction and application of water to beneficial use.

- 19. As of May 14, 2003, the remaining work to be completed consists of completion of construction and complete application of water to beneficial use.
- 20. Unforeseen events extended the length of time needed to fully develop and perfect the permit, due to a slow rate of population growth which has not yet presented a demand for the full permitted quantity of water.

21. As of May 14, 2003, the population served under Permit #G-3240 is 3,900. The permit holder estimates that when the right is fully developed a population of 4,700 will be served by this permit.
22. As of May 14, 2003, the permit holder estimated that by the year 2004, 3.3 cfs of water will be beneficially used. Additionally, if the presently estimated growth and water use rates are reached, beneficial use to the full extent under Permit #G-3240 will occur in approximately 2006.
23. Given the amount of development left to occur, the Department has determined that the permittee's request to have until October 1, 2008, to complete construction and accomplish the application of water to beneficial use under the terms of Permit #G-3240 is both reasonable and necessary.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230 and ORS 537.630.
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0040(1)(a).
3. The applicant demonstrated that actual construction on the project began within the time specified in the permit, as required by OAR 690-315-0040(1)(b).
4. Completion of construction and full application of water to beneficial use can be accomplished by October 1, 2008², as required by OAR 690-315-0040(1)(c).
5. The Department has considered the requirements of other governmental agencies, the financial investment made, the reasonable diligence and good faith of the appropriator, the market and present demands for water and the fair return upon the investment, and has determined that the applicant has shown good cause exists for an extension to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

² For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey original to be submitted as required by the Water Resources Department, for a certificate of a water right certificate; or (2) Continue to appropriate water until the Water Resources Department conducts a survey and a water right certificate under ORS 537.250 or 537.625.

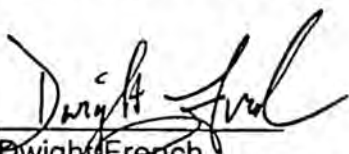
Proposed Order

Based upon the foregoing findings of fact and conclusions of law, the Department proposes to issue an order to:

Extend the time for complete construction of the water system under Permit #G-3240 from October 1, 2000, to October 1, 2008; and

Extend the time for complete application of water to beneficial use under Permit #G-3240 from October 1, 2000, to October 1, 2008.

DATED: October 26, 2004


Dwight French
Water Rights Section Manager

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

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may request a contested case hearing on the proposed final order. Your request for contested case hearing must be in writing and must be received by the Water Resources Department no later than **Friday, December 10, 2004**, being 45 days from the date of publication of the proposed final order in the Department's weekly public notice.
2. A written request for contested case hearing shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - c. A detailed description of how the action proposed in the final order would adversely affect or aggrieve the petitioner's interest;
 - d. A detailed description of how the final order is in error or deficient and how to correct the alleged error or deficiency;
 - e. Any citation of legal authority supporting the petitioner, if known;
 - f. Proof of service of the petition upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
 - a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a request for contested case hearing has been submitted, and:
 - A. Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - B. The applicant submitted a timely request for a contested case hearing.

If you have other questions about the Department, or any of its programs, please contact our Water Rights Information Group at (503)986-0801. Address all other correspondence to:

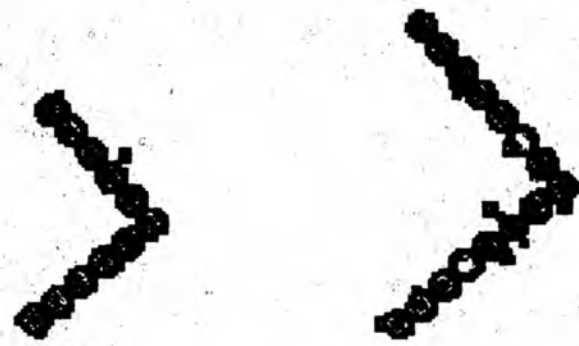
**Water Rights Section
Oregon Water Resources Department
725 NE Summer Street, Suite A
Salem, OR 97301-1271
Fax #: (503)986-0901**

If you have any questions about statements contained in this document, please contact Lisa Juul at (503)986-0808.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun. Her telephone number is (503)986-0824.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503)986-0900.

Name _____
 Address _____
 Assigned Address _____
 Beginning construction February 23, 1968
 Completion of construction October 1, 1968
 Extended to 12-1-77 10-1-89, 10-1-95
 Complete application of water October 1, 1969
 Extended to 12-1-77 10-1-89, 10-1-95
 For proof _____
 Proof mailed _____
 Application No. 2437
 Permit No. 13210
 174.5



Harbor Water P.U.D.



Post Office Box 2437 • Harbor, Oregon 97415

96069 WEST BENHAM LANE • HARBOR, OREGON 97415
(541) 469-3011 FAX: (541) 469-3343DATE: October 6, 2004TIME: 10:45 a.m.TO: John UngerCOMPANY: State of Oregon - Water Resources BoardFAX NUMBER: (503) 986-0901PHONE: (503) 986-0802NUMBER OF PAGES: 2 (Including cover sheet)FROM: Jackie Adams

COMMENTS: Per your request, the following page is a
copy from our "daily pumping log" dated
August 8, 1997. Through October, 2000 this was
our highest daily use. 2.53 cfs

RECEIVED

OCT 06 2004

WATER RESOURCES DEPT
SALEM, OREGON

Harbor Water P.U.D. Daily Pumping Log

SEMI-HOUR TIME	METER TOTAL GAL.	DAILY GAL. PUMPED X 1000	#1 HOUR METER	#2 HOUR METER	#3 HOUR METER	#4 HOUR METER	TOTAL HOURS PUMPED	NTU	LBS C12 IN TANK	FREE C12	WET WELL ABOVE GRAVELINE	TEMP.	COMMENTS
1 1:00	357581	1256.000	176821	169787	147753	154241	22.5	.08	76	.1	2.5	58°	51.0
2 1:15	388731	1145.000			147780	154421	20.7	.09	72	.4	3.5	52°	56.1
3 1:30	389975	1214.000			147952	154472	22.3	.08	68	.7	2.5	59°	56.5
4 1:45	391165	1196.000			147987	154652	21.5	.07	64	.4	2.5	59°	56.0
5 1:50	392323	1158.000			148124	154672	20.1	.11	60	.4	2.5	59°	56.0
6 1:55	393510	1247.000			148197	154826	22.7	.11	55	.4	2.5	59°	56.0
7 2:00	394786	1216.000			148363	154925	22.0	.07	50	.4	2.5	59°	56.0
8 2:05	396419	1633.000			148498	155142	29.9	.11	45	.4	2.5	59°	56.0
9 2:10	397666	1767.000	176172	164746	148507	155164	23.3	.12	41	.3	2.5	59°	56.0
10 2:15	398936	1852.000	176181	164985			19.6	.12	38	.4	2.5	59°	56.0
11 2:20	399628	850.000	176084	170117			16.5	.11	32	.4	2.5	59°	56.0
12 2:25	400649	1021.000	176139	170180			18.8	.12	28	.4	2.5	59°	56.0
13 2:30	401672	1043.000	176203	170201			19.3	.12	24	.4	2.5	59°	56.0
14 2:35	402717	1025.000	176266	170333			18.7	.11	20	.4	2.5	59°	56.0
15 2:40	403740	1023.000	176278	170411			19.1	.11	16	.4	2.5	59°	56.0
16 2:45	404743	1003.000	176462	170411			18.3	.13	12	.4	2.5	59°	56.0
17 2:50	405750	1207.000	176673	170601			22.6	.10	8	.4	2.5	59°	56.0
18 2:55	406765	1015.000	176853	170635			18.7	.14	4	.4	2.5	59°	56.0
19 3:00	408320	1355.000	176710	170832			20.4	.12	0	.4	2.5	59°	56.0
20 3:05	409400	1030.000	176814	170864			20.1	.13	0	.4	2.5	59°	56.0
21 3:10	410525	925.000	176843	170971			17.1	.14	0	.4	2.5	59°	56.0
22 3:15	411371	1046.000	176860	171146			19.4	.13	0	.4	2.5	59°	56.0
23 3:20	412574	1203.000	176860	171190			22.2	.13	0	.4	2.5	59°	56.0
24 3:25	413609	1035.000	176890	171334			19.1	.13	0	.4	2.5	59°	56.0
25 3:30	414372	763.000	176456	171410			14.2	.15	0	.4	2.5	59°	56.0
26 3:35	415351	979.000	176563	171484			18.1	.13	0	.4	2.5	59°	56.0
27 3:40	416194	847.000	176642	171565			15.3	.14	0	.4	2.5	59°	56.0
28 3:45	417054	856.000	176753	171609			15.7	.14	0	.4	2.5	59°	56.0
29 3:50	417896	831.000	176843	171678			16.5	.14	0	.4	2.5	59°	56.0
30 3:55	418726	886.000	176808	171670			16.1	.13	0	.4	2.5	59°	56.0
31 4:00	419715	939.000	176823	171830			17.5	.14	0	.4	2.5	59°	56.0

RECEIVED

OCT 06 2004

WATER RESOURCES DEPT
SALEM, OREGON



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

February 17, 2005

Harbor Water People's Utility District
P.O. Box 2437
Harbor, Oregon 97415

Reference: Application G-3361, Permit G-3240

The assignment from Harbor Rural Water District to Harbor Water People's Utility District, has been recorded in the records of the Water Resources Department.

Our records have been changed accordingly and the original request is enclosed. Receipt number 72715 covering the recording fee of \$25.00 is also enclosed.

Sincerely,

Jerry Sauter
Water Rights Program Analyst

Enclosure: Receipt 72715

cc: Watermaster 19
Data Center, OWRD
Mary Rohling
File

REQUEST FOR ASSIGNMENT

I, Harbor Rural Water District
(Name of Applicant / Permit / Transfer Holder)

P.O. Box 2437 Harbor OR 97415 (541) 469-3011
(mailing address) (City) (State) (Zip) (Phone #)

CHECK ONE

☒ ...hereby assign **all my interest** in and to application/permit/transfer;

☐ ...hereby assign **all my interest** in and to a **portion** of application/permit/transfer;
(You must include a map showing the portion of the application/permit to be assigned.)

☐ ...hereby assign **a portion of my interest** in and to the **entire** application/permit/transfer;

Application # G-3361, Permit # G-3240, Transfer # _____

-OR-

GR Statement # _____, GR Certificate of Registration # _____

as filed in the office of the Water Resources Director, to:

Harbor Water People's Utility District

(Name of New Owner)

P.O. Box 2437 Harbor OR 97415 (541) 469-3011
(mailing address) (City) (State) (Zip) (Phone #)

NOTE:

If there are other owners of the property described in this Application, Permit, Transfer or Certificate of Ground Water Registration, you must provide a list of all other owners' names and mailing addresses and attach it to this form.

I hereby certify that I have notified all other owners of the property described in this Application, Permit or Certificate of Registration of this request for assignment.

Witness my hand this _____ day of _____, 20 05

Applicant/Permit holder Delbert R. Buell

Applicant/Permit holder Dale Mathison
Dale Mathison

DO NOT WRITE IN THIS BOX

This certifies assignment and record change at Oregon Water Resources Department effective 8:00a.m. on date of receipt at Salem, Oregon.
Fee receipt # 72715
For Director by Jerry Sauer, Program Analyst in Water Rights Division

The completed "Request for Assignment" form must be submitted to the Department along with the appropriate recording fees:

- ♦ \$25 for the first page, and
- ♦ \$5 for **each additional page**.
[as required by ORS 536.050(1)(d)]

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

RECEIVED

FEB 14 2005

WATER RESOURCES DEPT
SALEM, OREGON

APR 16 2005
2/17/05

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **72715**

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

INVOICE # _____

RECEIVED FROM: Horizon Electric P.U.D.
BY: Revenue Fund

APPLICATION	<u>General</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 455 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 5,000.00

1083 TREASURY 4170 WRD MISC CASH ACCT

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

0243 VS 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) 11 \$ _____
TC162 DEPOSIT LIAB. (IDENTIFY) _____ \$ _____
0240 EXTENSION OF TIME _____ \$ _____

WATER RIGHTS:

0201 SURFACE WATER	EXAM FEE \$ _____	0202 RECORD FEE \$ _____
0203 GROUND WATER	EXAM FEE \$ _____	0204 RECORD FEE \$ _____
0205 TRANSFER	EXAM FEE \$ _____	

WELL CONSTRUCTION

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

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: **72715**

DATED: 11/1/5 BY: Sumner

Distribution White

File, Bufl

Fiscal



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

September 20, 2010

P David Ingalls
Hornecker Cowling Hassen
717 Murphy Rd
Medford OR 97504

Re: *Harbor Water People's Utility District applications for extension of time for permits G-9438, G-3240 and S-31365*

Dear Mr. Ingalls:

Thank you for taking the time to speak with me about the protests by WaterWatch of Oregon, Inc. to the department's proposed final orders on the above extension applications. My understanding from our phone conversation is that you will recommend to the district that it request a further hold on the processing of the protests.

The district may request that the department put the applications on hold by letter to me at the above address. The department will generally grant a hold for one year, after which it will contact the applicant to determine if another hold is needed.

Please contact me directly, or have the district contact me, at the number below if there are any questions.

Sincerely,

Patricia McCarty
Protest Program Coordinator
503-986-0820

HORNECKER, COWLING, HASSEN & HEYSELL, L.L.P.

Attorneys at Law

Robert L. Cowling
John R. Hassen
R. Ray Heyssel
H. Scott Plouse
P. David Ingalls
Adam T. Stamper*
Joseph E. Kellerman
James A. Wallan
Benjamin M. Bloom
Charles E. Bolen
Ryan J. Vanderhoof
Stefanie L. Burke*
Mark S. Bartholomew

717 Murphy Road
Medford, OR 97504
(541) 779-8900
Fax: (541) 779-2982
<http://www.roguelaw.com>

Eric B. Mitton
**Erik C. Larsen, LL.M.
*Staci L. Palin
Michael J. Mayerle

OF COUNSEL
***Robert D. Kaplan

Gregory T. Hornecker 1933-2009
B. Kent Blackhurst 1922-2007
Ervin B. Hogan 1927-2000

*Also admitted in California
**Also admitted in Idaho
***Admitted in Washington

September 30, 2010

Patricia McCarty
Protest Program Coordinator
Water Resources Department
North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271

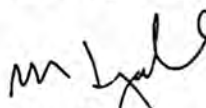
RE: *Harbor Water People's Utility District*
Applications for extension of time for permits G-9438; G-3240 and S-31365

Dear Ms. McCarty:

Thank you for your letter of September 20, 2010. On behalf of Harbor Water People's Utility District, I am authorized to request an extension as outlined in your letter.

Thank you for your cooperation and assistance.

Yours very truly,


P. David Ingalls

PDI:hm
c: Harbor Water People's Utility District

RECEIVED

OCT 04 2010

WATER RESOURCES DEPT
SALEM OREGON



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 7, 2010

P David Ingalls
Hornecker Cowling Hassen
717 Murphy Rd
Medford OR 97504

Re: *Harbor Water People's Utility District applications for extension of time for permits G-9438, G-3240 and S-31365*

Dear Mr. Ingalls:

The requests for a hold on the applications for extension of time on the above permits are hereby granted. The department will resume processing the applications after October 7, 2011. If you would like the department to resume processing before that date, please contact me directly at the number below.

Sincerely,

Patricia McCarty
Protest Program Coordinator
503-986-0820

C: Jackie Adams

**Oregon Water Resources Department
Water Rights Division**

Application for Extension of Time

In the Matter of the Application	)	
for an Extension of Time for	)	
Permit #G-3240, Water Right	)	PROPOSED FINAL ORDER
Application #G-3361	)	
(Harbor Rural Water District)	)	

Permit Information

Application File #G-3361 / Permit #G-3240

Basin: #17 - South Coast / Watermaster District: #19

Date of Priority: January 28, 1966

Authorized Use of Water

Source of Water:	One Well within the Chetco River Basin
Purpose or Use:	Domestic Water Supply
Maximum Rate:	3.5 cfs (cubic feet per second) - The diversion point herein described is identical to that under Permit #S-31365 and the total quantity of water withdrawn under this permit together with the quantity under Permit #S-31365 shall not exceed 3.5 cfs.

**This Extension of Time request is being processed in accordance
with Oregon Administrative Rule Chapter 690, Division 315.**

Please read this Proposed Final Order in its entirety.

This Proposed Final Order applies only to Permit #G-3240, water right Application #G-3361. A copy of Permit #G-3240 is enclosed as Attachment 1.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- grant the extension for complete construction of the water system from October 1, 2000, to October 1, 2008;
- grant the extension for complete application of water from October 1, 2000, to October 1, 2008.

AUTHORITY

ORS 537.230 and ORS 537.630(1) provide in pertinent part that the Water Resources Department shall, for good cause shown, order an extension of time within which: irrigation or other works shall be completed; the well or other means of developing and securing ground water shall be completed; or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5).

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

FINDINGS OF FACT

Background

1. Permit #G-3240 was granted by the Water Resources Department on February 23, 1967. The permit authorizes the use of up to 3.5 cfs of water from one well, within the Chetco River Basin, for domestic water supply. The permit specified that construction of the water system was to be completed by October 1, 1968, and that complete application of water was to be made on or before October 1, 1969.
2. Six prior extensions have been granted for Permit #G-3240. The most recent extended the time in which to complete construction of the water system and the time in which to accomplish full beneficial use of water under the terms of Permit #G-3240 from October 1, 1995, to October 1, 2000.
3. The permit holder submitted an "Application for Extension of Time" to the Department on May 14, 2003, requesting the time in which to accomplish beneficial use of water to the full extent under the terms of Permit #G-3240 be extended from October 1, 2000, to October 1, 2008. The extension application form clearly suggests that construction is not complete. The Department, therefore, determined that the permit holder's intent was to also request the time in which to complete construction of the water system under Permit #G-3240 be extended from October 1, 2000, to October 1, 2008.
4. Notification of the permit holder's extension of time request for Permit #G-3240 was published on the Department's Public Notice dated June 17, 2003. No public comment on the extension application was received.

Review Criteria [OAR 690-315-0040(1)(2)]

As set forth under OAR 690-315-0040(1)(2), the time limits to complete construction or to apply the water to a beneficial use may be extended upon showing of good cause for the untimely completion. This determination shall consider the applicable requirements of ORS 537.230, 537.248¹, 537.630 and 539.010(5).

Other Governmental Requirements [ORS 537.230(2)]

5. Delay in the development of this project was not caused by any other governmental requirements.

¹ ORS 537.248 applies to reservoir permits only.

Start of Construction [ORS 537.630]

6. Construction of the well and water system began within the time specified in the permit, being February 23, 1968.

Financial Investment [ORS 539.010(5)]

7. As of May 14, 2003, the total amount invested by the permit holder into the project is unknown, although, in 1982 the permit holder constructed a Ranney collector well at a cost of \$334,500. An additional 250 thousand gallon storage tank may be added in the future at a cost of \$584,000.

Reasonable Diligence and Good Faith of the Appropriator [ORS 537.230(1), 537.630(1) and 539.010(5)]

Reasonable diligence during the permit period constitutes a continuing test of whether and under what conditions to grant an extension [ORS 537.260, OAR 690-315-0040(3)].

In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction

8. The following construction was completed within the time allowed in the permit or previous extension:
 - a. During the last extension period, being from October 1, 1995, to October 1, 2000, the permit holder completed a Water Master Plan including a Water Management and Conservation Plan.

Beneficial Use of Water

9. The following beneficial use was made of the water during the permit or previous extension time limits:
 - a. Since the issuance of Permit #G-3240 on February 23, 1967, a maximum rate of 2.53 cfs of the permitted 3.5 cfs of water has been appropriated from the well for domestic use.
 - b. Delay of full beneficial use of water under Permit #G-3240 was due to a slow rate of population growth which has not yet presented a demand for the full permitted quantity of water.

Compliance with Conditions

10. The water right permit holder's conformance with the permit or previous extension conditions.

- a. The record does not raise concerns about the permit holder's compliance with conditions.

Financial Investments

- 11. Financial investments made toward developing the beneficial water use.

- a. As of May 14, 2003, the total amount invested by the permit holder into the project is unknown, although, in 1982 the permit holder constructed a Ranney collector well at a cost of \$334,500. An additional 250 thousand gallon storage tank may be added in the future at a cost of \$584,000.

The Market and Present Demands for Water [ORS 539.010(5) and OAR 690-315-0040(4)]

In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- 12. The amount of water available to satisfy other affected water rights and scenic waterway flows.
 - a. The Department determined on July 3, 2003, that the permitted source of water (Ranney collector well) is directly connected to the Chetco River resulting in the potential for substantial interference with surface water.
 - b. The permitted point of appropriation (the well), authorized under Permit #G-3240, is not located within the boundaries of any designated ground water limited area.
 - c. The permitted point of appropriation (the well), authorized under Permit #G-3240, is not located within or above the designated boundaries of any state scenic waterway.
- 13. Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).
 - a. The permitted point of appropriation, authorized under Permit #G-3240, is located within an area of the Chetco River Basin which has been identified by the Oregon Department of Fish and Wildlife as a "highest" needs ranking area for streamflow restoration for fish. Additionally, the Chetco River has been designated by the Oregon Department of Environmental Quality as a water quality limited stream.

- b. The permitted point of appropriation, authorized under Permit #G-3240, is not located within a designated reach of a federal wild and scenic river.
- 14. The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.
 - a. The permitted well is located within a designated sensitive, threatened or endangered species area for aquatic species utilizing surface water resources, as identified by the Oregon Department of Fish and Wildlife.
- 15. Economic investment in the project to date.
 - a. As of May 14, 2003, the total amount invested by the permit holder into the project is unknown, although, in 1982 the permit holder constructed a Ranney collector well at a cost of \$334,500. An additional 250 thousand gallon storage tank may be added in the future at a cost of \$584,000.
- 16. Other economic interests dependent on completion of the project.
 - a. None have been identified.
- 17. Other factors relevant to the determination of the market and present demand for water and power.
 - a. None have been identified.

Fair Return Upon Investment [ORS 539.010(5)]

- 18. Use and income from the permitted water development already results in reasonable returns upon the investment made to date.

Duration of Extension [OAR 690-315-0040(1)(c), ORS 539.010(5)]

As set forth under OAR 690-315-0040(1)(c), time extensions granted shall be for the reasonable time period necessary to complete construction and application of water to beneficial use.

- 19. As of May 14, 2003, the remaining work to be completed consists of completion of construction and complete application of water to beneficial use.
- 20. Unforeseen events extended the length of time needed to fully develop and perfect the permit, due to a slow rate of population growth which has not yet presented a demand for the full permitted quantity of water.

21. As of May 14, 2003, the population served under Permit #G-3240 is 3,900. The permit holder estimates that when the right is fully developed a population of 4,700 will be served by this permit.
22. As of May 14, 2003, the permit holder estimated that by the year 2004, 3.3 cfs of water will be beneficially used. Additionally, if the presently estimated growth and water use rates are reached, beneficial use to the full extent under Permit #G-3240 will occur in approximately 2006.
23. Given the amount of development left to occur, the Department has determined that the permittee's request to have until October 1, 2008, to complete construction and accomplish the application of water to beneficial use under the terms of Permit #G-3240 is both reasonable and necessary.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.230 and ORS 537.630.
2. The applicant has submitted a complete extension application form and the fee specified under ORS 536.050(1)(k), as required by OAR 690-315-0040(1)(a).
3. The applicant demonstrated that actual construction on the project began within the time specified in the permit, as required by OAR 690-315-0040(1)(b).
4. Completion of construction and full application of water to beneficial use can be accomplished by October 1, 2008², as required by OAR 690-315-0040(1)(c).
5. The Department has considered the requirements of other governmental agencies, the financial investment made, the reasonable diligence and good faith of the appropriator, the market and present demands for water and the fair return upon the investment, and has determined that the applicant has shown good cause exists for an extension to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

² For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625.

Proposed Order

Based upon the foregoing findings of fact and conclusions of law, the Department proposes to issue an order to:

Extend the time for complete construction of the water system under Permit #G-3240 from October 1, 2000, to October 1, 2008; and

Extend the time for complete application of water to beneficial use under Permit #G-3240 from October 1, 2000, to October 1, 2008.

DATED: October 26, 2004


Dwight French
Water Rights Section Manager

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

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may request a contested case hearing on the proposed final order. Your request for contested case hearing must be in writing and must be received by the Water Resources Department no later than **Friday, December 10, 2004**, being 45 days from the date of publication of the proposed final order in the Department's weekly public notice.
2. A written request for contested case hearing shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - c. A detailed description of how the action proposed in the final order would adversely affect or aggrieve the petitioner's interest;
 - d. A detailed description of how the final order is in error or deficient and how to correct the alleged error or deficiency;
 - e. Any citation of legal authority supporting the petitioner, if known;
 - f. Proof of service of the petition upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
 - a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a request for contested case hearing has been submitted, and:
 - A. Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - B. The applicant submitted a timely request for a contested case hearing.

If you have other questions about the Department, or any of its programs, please contact our Water Rights Information Group at (503)986-0801. Address all other correspondence to:

**Water Rights Section
Oregon Water Resources Department
725 NE Summer Street, Suite A
Salem, OR 97301-1271
Fax #: (503)986-0901**

If you have any questions about statements contained in this document, please contact Lisa Juul at (503)986-0808.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun. Her telephone number is (503)986-0824.

If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503)986-0900.

Mailing List for Extension PFO Copies

Application #G-3361
Permit #G-3240

PFO Date: October 26, 2004

Original mailed to:

Applicant: Harbor Rural Water District
Attn: Jackie Adams
PO Box 2437
Harbor, OR 97415

Copies Mailed
By: <u>P</u> (SUPPORT STAFF)
on: <u>10-27-04</u> (DATE)

For Extension PFO's - Copies sent to:

1. WRD - Appl. File #G-3361 / Permit #G-3240 ✓
2. WRD - Watermaster District: #19 - Mitch Lewis, Coquille ✓
3. DEQ - Western Region - John Blanchard, Medford ✓
4. ODFW - District #0 - Todd Confer, Gold Beach ✓

Other interested parties:

5. RICK KEPLER
OR DEPT OF FISH AND WILDLIFE
3406 CHERRY AVENUE
KEIZER OR 97303-4924
Wildlife ✓

CASEWORKER: LJJ/JJU

Application # G-3361 / Permit # G-3240

Route Slip ... Extension of Time

per Division 315 Rules... (Extensions received on July 1, 2001 or after)

♦ **WRIG...**
Money Received: \$100.⁰⁰ on 5-14-03

♦ **Lisa Juul...**
Extension Completeness: 
(If NOT complete, send certified letter requesting add'l information.)

If Extension Appl complete and \$100 fee submitted, route to...

♦ **Jonnine Fuss...**
Initial 30-day Public Notice: 6/17/03 
Update Extension Database: 6/17/03 
Files back to filing cabinets: Back to Lisa

At the close of the Initial 30-day Comment Period...

♦ **Lisa Juul...**
Pull files for Ext PFO review: _____
Extension PFO completed: _____

Once Extension PFO signed by Dwight French...

♦ **Jonnine Fuss...**
Prepare Ext PFO for mailing to applicant: _____
Mail to those who commented and paid copy fee: _____
Include Ext PFO on weekly Public Notice: _____

Within 60 days after the close of the 45-day PFO Protest Period...
(PFO Protest Period ends 45 days from PFO sign date)...

♦ **Lisa Juul...**
Issue an Extension FO: _____

Domestic Use Permit
~~Municipal or Quasi-Municipal~~

EXTENSION REVIEW CHECKLIST for PFO... per Div. 315 Rules

Application #: G-3361 / Permit #: G-3240

Permittee's Name: Harbor Water People's Utility District; Jackie Adams, Manager

Permittee's Mailing Address: PO Box 2437, Harbor, OR 97415

POD Location: Township 40-S Range 13-W Section 34 $\frac{1}{4}$ $\frac{1}{4}$ SWSW

Stream Basin: #17 South Coast WM #19 County: Curry
Nitch Lewis

✓ 1. Has the applicant completely filled out the updated Extension Application form? (Yes) No

***If "No" has certified request for the new extension form been sent? Yes/No

✓ \$100-Yes

✓ 2. Shortcomings of Extension Request..... based upon review of updated extension form Yes/No

*** (NOTE: Any missing Extension information that is needed before an Extension PFO can be completed???)

✓ 3. Date Permit was issued: 2-23-67 (priority = 1-28-66)

✓ 4. Source: One Well

* The diversion point herein described is identical to that under Permit # 31365 & the total quantity of water withdrawn under this permit together with the quantity under Permit # 31365 shall not exceed 3.5 cfs.

✓ 5. Use: Domestic

✓ 6. "Q": 3.5 cfs *

✓ 7. Original "B" Date: 10-1-68

Original "C" Date: 10-1-69

✓ 8. Conditions of Permit: Original "A" Date: 2-23-68

A, B & C Dates

Max "Q" Limitation

✓ 9. Extension request received: 5-14-03

Request Number (...1st 2nd, 3rd): 7th

✓ 10. Last Authorized "B" Date: 10-1-2000

Last Authorized "C" Date: 10-1-2000

✓ 11. Proposed "B" Date: 10-1-08

Proposed C Date: 10-1-2008

JJU
10/19/04

___12. Amount Invested to date: _____ Estimated Total Cost: _____

(***Estimated Remaining Cost: _____)

___13. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit. Yes / No ***If "No"..... What permit terms and/or conditions have not been met?

___14. Work on the water development project completed to date includes: _____

___15. The work remaining to be completed consists of: _____

___16. Progress in perfecting the permit is being held up by: _____

___17. Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes / No

___18. Determination of the market and the present demand for water or power to be supplied: _____

___19. Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. → Approval of Extension Request

No ... "Good Cause" cannot be found. → Denial of Extension Request

___20. Conditions to be included on Extension PFO: _____

Extension "PFO" Dates

Checklist Last Revised: 1 / 31 / 2003

Mailing / Issuance Date: _____ Reviewer's Name: _____

Protest Deadline Date: _____ Date: _____

13. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit. Yes / No ***If "No"..... What permit terms and/or conditions have not been met?

see form "A"

14. Work on the water development project completed to date includes: _____

- Complete construction of water system
- Installation of Rainey Collector Well

15. The work remaining to be completed consists of: _____

- Full Application of water to beneficial use
- Completion of construction

16. Progress in perfecting the permit is being held up by: _____

- population growth

17. Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes / No

Some Factors that may be considered in determining "Reasonable Diligence" [OAR 690-315-040(3)]

- The amount of construction completed within the time allowed in the permit or previous extension;
- The amount of beneficial use made of the water during the permit or previous extension time limits;
- Water right permit holder conformance with the permit or previous extension conditions; and
- Financial investments made toward developing the beneficial water use.

- Permit holder has completed approximately N/A % of the construction.
- Permit holder has beneficially used 12 % of the total permitted quantity of water. 9/21/02 4.86 cfs of 3.5 cfs
- Has the permit holder complied with conditions? Yes / No 2.53
- —If No, reasons why not? _____
- Permit holder has invested approximately N/A % of the total estimated cost to complete the project.
- Other: X

18. Determination of the market and the present demand for water or power, to be supplied: _____

Some factors to consider in determining the Market and the Present Demand for water or power [OAR 690-315-040(4)]:

- The amount of water available to satisfy other affected water rights and scenic waterway flows;
- Special water use designations established since permit issuance (such as...state scenic waterways, federal wild and scenic rivers, serious water management problem areas, water quality limited sources, etc.);
- The habitat needs of sensitive, threatened or endangered species, in consultation with ODFW;
- Economic investment in the project to date;
- Other economic interests dependent on completion of the project; and
- Other factors relevant to the determination of the market and the present demand for water or power.

Is the POD/POA located.....

- If a GW permit, is GW hydraulically connected to SW (see original Div. 09 GW review)? Yes - See 7-3-03
- within or above a state scenic waterway? no
- within a ground water limited/critical area? no
- within a segment that has been identified as a federal wild and scenic river? no
- within an area that ODFW has identified as an ST&E Area? yes
- within an area that ODFW has identified as a highest Needs Ranking Area for streamflow restoration for fish?
- within an area that DEQ has identified as being water quality limited? yes
- Other: _____

___19. Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. → Approval of Extension Request

No ... "Good Cause" cannot be found. → Denial of Extension Request

___20. Conditions to be included in Extension PFO (if applicable)? Yes No
(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

☐ 5-year Progress Report Checkpoints

☐ Other: _____

___21. Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:



COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☐ COBU Requirement - Surface Water - post July 9, 1987

"Pursuant to ORS 537.230(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use."

☐ COBU Requirement - Ground Water - post July 9, 1987

"Pursuant to ORS 537.630(3), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and the claim of beneficial use."

NOTES:

App. File # G-3361
☒ PFO peer review by JD

___ final PFO preparation

___ move file to "done" and print out

___ set up e-mail notification, if NW region

___ prepare FO checklist

___ prepare FO draft

___ update workingcopy.xls

___ update personal tracking db

Extension "PFO" Dates

Checklist Last Revised: 3/4/2004

Mailing / Issuance Date: 10/19/04 WRD Project Manager: [Signature]

Protest Deadline Date: 12/3/04 Date: 7/20/04

B. GROUND WATER AVAILABILITY CONSIDERATIONS, OAR 690-310-130, 400-010, 410-0070

B1. Based upon available data, I have determined that ground water* for the proposed use:

7-20-04

- GW is available per memo
- a. ☐ is over appropriated, ☒ is not over appropriated, or ☐ cannot be determined to be over appropriated during any period of the proposed use. * This finding is limited to the ground water portion of the over-appropriation determination as prescribed in OAR 690-310-130;
 - b. ☐ will not or ☒ will likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the ground water portion of the injury determination as prescribed in OAR 690-310-130;
 - c. ☐ will not or ☒ will likely to be available within the capacity of the ground water resource; or
 - d. ☐ will, if properly conditioned, avoid injury to existing ground water rights or to the ground water resource:
 - i. ☐ The permit should contain condition #(s) _____;
 - ii. ☐ The permit should be conditioned as indicated in item 2 below.
 - iii. ☐ The permit should contain special condition(s) as indicated in item 3 below;

- None
- B2. a. ☐ Condition to allow ground water production from no deeper than _____ ft. below land surface;
 - b. ☐ Condition to allow ground water production from no shallower than _____ ft. below land surface;
 - c. ☐ Condition to allow ground water production only from the _____ ground water reservoir between approximately _____ ft. and _____ ft. below land surface;
 - d. ☐ Well reconstruction is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Ground Water Section.

Describe injury -as related to water availability- that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

B3. Ground water availability remarks: Source is a Ranney Collector which is directly connected to the Chetco River. Over appropriation of ground water will not be an issue, but the use of this collector will influence Chetco River flows.

On ^{permitted} July 3, 2003, the Dept determined
The ^{Source of water} Source is a Ranney Collector, which is
directly connected to the Chetco
River.

July 3, 2003

To: Lisa Juul
From: Doug Woodcock 
Subject: Flag for Harbor Rural W.D.

Here are the Harbor Rural W.D. files with the extensions for time. I have made no recommendations for ground water-related conditions on the files. As I understand it, the City of Brookings also has SW file with an extension of time request pending. The City of Brookings has an agreement with ODFW to curtail water use with decreasing flows in the Chetco River. The Harbor Rural W.D. has no such requirement to curtail water use but has a Ranney system just like Brookings and is directly connected to the Chetco, just like Brookings.

Per our discussion with Bob Rice today, is it appropriate to formalize the curtailment plan *for both water purveyors* by making the curtailment plan a condition of the permits? I believe both purveyors are senior to the ISWRs for the Chetco. However, the ISWR's are generally not met each summer and ODFW has set Chetco flows as a high priority.

This is a bit beyond the Ground Water Section review, but I pass it on as a heads up to any who are interested.

X-Sender: ungerjj@mailhub.wrd.state.or.us
X-Mailer: QUALCOMM Windows Eudora Version 6.1.1.1
Date: Tue, 21 Sep 2004 13:15:54 -0700
To: Rick.J.Kepler@state.or.us
From: Jon Unger <Jonathan.J.UNGER@wrд.state.or.us>
Subject: Water Right Extension
Cc: Jonathan.J.UNGER@wrд.state.or.us
X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on
kettle.wrd.state.or.us
X-Spam-Status: No, hits=0.0 required=5.0 tests=none autolearn=ham version=2.63
X-Spam-Level:

Mr. Kepler,

The Water Resources Department is preparing to issue a proposed final order for an extension of time for Permit G-3240 held by Harbor Rural Water District. Given ODFW's stance on City of Brookings PFO's, we wanted to give you an opportunity to comment before we process this PFO. If we don't get your comments by September 29, 2004, we will proceed with processing of the PFO and will send you a copy. The following information is relevant to the water right in question.

Permittee: Harbor Rural Water District

Application #G-3361; Permit #G-3240

Source: One Well (Ranney Collector in the Chetco River)

Use: Domestic *

Quantity: 3.5 cfs (have used 1.86 cfs so far)

POD location: Township: 40-S Range: 13-W Section: 34 1/4 1/4: SW SW

*The diversion point herein described is identical to that under Permit # 31365 and the total quantity of water withdrawn under this permit together with the quantity under Permit # 31365 shall not exceed 3.5 cfs.

If you have any questions or comments please feel free to call me at (503) 986-0802.

Sincerely,

Jonathan J. Unger
Water Resources Department

MEMO

7.3, 2003

☐ Yes☐ No☐ Yes☒ No☒

Exercise of this permit is calculated to reduce monthly flows in _____ Scenic Waterway by the following amounts expressed as a proportion of the consumptive use by which surface water flow is reduced.

[illegible]

TO: Water Rights Section Date July 3, 2003

FROM: Ground Water/Hydrology Section Douglas Woodcock
Reviewer's Name

SUBJECT: Application G- 9502 Supersedes review of none Date of Review(s)

PUBLIC INTEREST PRESUMPTION; GROUNDWATER

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525. Department staff review ground water applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. This review is based upon available information and agency policies in place at the time of evaluation.*

A. GENERAL INFORMATION: Applicant's Name: Harbor Rural Water District

A1. Applicant(s) seek(s) 3.5 cfs from 1 well(s) in the South Coast Basin,
Chetco R subbasin Quad Map: Brookings, Mt Emily

A2. Proposed use: Quasi-Municipal Seasonality: year-round

A3. Well and aquifer data (attach and number logs for existing wells; mark proposed wells as such under logid):

Well	Logid	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, example: 2250' N, 1200' E fr NW cor S 36
1	Ranney Coll.	Alluvium	3.5	40S/13W-34 SW-SW	800' N, 1000' E fr SW cor Sec 34
2					
3					
4					
5					

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval	Casing Intervals	Liner Intervals	Perforations Or Screens	Well Yield	Draw Down	Test Type
1												

Use data from application for proposed wells.

A4. Comments: This public interest review is requested on this existing permitted right due to an extension of time request. The source is a ranney collector constructed in the alluvial gravels of the Chetco River. The collector is described as having 6 10-inch arms with 70-ft long horizontal well screens. The capacity of the collector is estimated to be over 11 MGD (17 CFS).

A5. ☐ Provisions of the South Coast Basin rules relative to the development, classification and/or management of ground water hydraulically connected to surface water ☐ are, or ☒ are not, activated by this application. (Not all basin rules contain such provisions.)

Comments: _____

A6. ☐ Well(s) # _____, _____, _____, _____, _____, tap(s) an aquifer limited by an administrative restriction. Name of administrative area: _____

Comments: _____

B1. Based upon available data, I have determined that ground water* for the proposed use:

- B1. Based upon available data, I have determined _____
- a. ☐ is over appropriated, ☒ is not over appropriated, or ☐ cannot be determined to be over appropriated during any period of the proposed use. * This finding is limited to the ground water portion of the over-appropriation determination as prescribed in OAR 690-310-130;
- b. ☐ will not or ☒ will likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the ground water portion of the injury determination as prescribed in OAR 690-310-130;
- c. ☐ will not or ☒ will likely to be available within the capacity of the ground water resource; or
- d. ☐ will, if properly conditioned, avoid injury to existing ground water rights or to the ground water resource:
- i. ☐ The permit should contain condition #(s) _____;
- ii. ☐ The permit should be conditioned as indicated in item 2 below.
- iii. ☐ The permit should contain special condition(s) as indicated in item 3 below;
- B2.
- a. ☐ Condition to allow ground water production from no deeper than _____ ft. below land surface;
- b. ☐ Condition to allow ground water production from no shallower than _____ ft. below land surface;
- c. ☐ Condition to allow ground water production only from the _____ ground water reservoir between approximately _____ ft. and _____ ft. below land surface;
- d. ☐ Well reconstruction is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Ground Water Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

- B3. Ground water availability remarks: Source is a Ranney Collector which is directly connected to the Chetco River. Over appropriation of ground water will not be an issue, but the use of this collector will influence Chetco River flows.

- C3b. 690-09-040 (4): Evaluation of stream impacts by total appropriation for all wells determined or assumed to be hydraulically connected and less than 1 mile from a surface water source. Complete only if Q is distributed among wells. Otherwise same evaluation and limitations apply as in C3a above.

	SW #	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
		☐			☐		☐		☐
		☐			☐		☐		☐
		☐			☐		☐		☐
		☐			☐		☐		☐

Comments: Per C3a, the rate was compared to the instream right on the Chetco because this permit is senior to the ISWR. The use of 3.5 cfs exceeds the 1% of the 80% natural flow. Because PSI was determined under 09-40 (4) no further evaluation was conducted.

- C4a. 690-09-040 (5): Estimated impacts on hydraulically connected surface water sources greater than one mile as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (c) and (d), which are not included on this form. For simple analytical models, model non-distributed wells once as a single well at the full rate using the closest hydraulically connected stream beyond one mile. For distributed wells, model each well once at the identified rate per well using the closest hydraulically connected stream beyond one mile. Adjust aquifer parameters to reflect uncertainties in streambed conductance, partial penetration, etc. Calculate the difference of the 1% WAB flow - Interference as CFS. Negative numbers indicate those months where calculated interference exceeds 1% of natural stream flow. Under "basis" identify which WAB was used and attach the ground water model parameters/results and water availability table to this review.

Non-Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Well Q as CFS													
Interference CFS													
Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Well Q as CFS													
Interference CFS													
Well Q as CFS													
Interference CFS													
Well Q as CFS													
Interference CFS													
Well Q as CFS													
Interference CFS													
Total Interf. CFS													
1 % WAB Nat. Q													
1%WAB - Interf.													

Basis for impact evaluation:

C4b. 690-09-040 (5) (b) The potential to impair or detrimentally affect the public interest is to be determined by the Water Rights Section.

C5. ☐ If properly conditioned, the surface water source(s) can be adequately protected from interference, and/or ground water use under this permit can be regulated if it is found to substantially interfere with surface water:

- i. ☐ The permit should contain condition #(s) _____;
- ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. SW / GW Remarks The Ranney collector is designed to be in direct hydraulic connection with surface water. Use of the collector will influence Chetco River flows.

D. WELL CONSTRUCTION, OAR 690-200

- D1. Well #: _____ Logid: _____
- D2. THE WELL does not meet current well construction standards based upon:
- a. ☐ review of the well log;
 - b. ☐ field inspection by _____;
 - c. ☐ report of CWRE _____;
 - d. ☐ other: (specify) _____
- D3. THE WELL construction deficiency:
- a. ☐ constitutes a health threat under Division 200 rules;
 - b. ☐ commingles water from more than one ground water reservoir;
 - c. ☐ permits the loss of artesian head;
 - d. ☐ permits the de-watering of one or more ground water reservoirs;
 - e. ☐ other: (specify) _____
- D4. THE WELL construction deficiency is described as follows: _____

- D5. THE WELL a. ☐ was, or ☐ was not constructed according to the standards in effect at the time of original construction or most recent modification.
- b. ☐ I don't know if it met standards at the time of construction.
- D6. ☐ Route to the Enforcement Section. I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Enforcement Section and the Ground Water Section.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

- D7. ☐ Well construction deficiency has been corrected by the following actions: _____

- _____, 200____.
- (Enforcement Section Signature)
- D8. ☐ Route to Water Rights Section (attach well reconstruction logs to this page).



DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 7/ 3/2003 for

CHETCO R > PACIFIC OCEAN - AT MOUTH

Basin: SOUTH COAST

Watershed ID #: 70908

Time: 11:31

Exceedance Level: 80

Date: 07/03/2003

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	CU + Stor After 1/1/93	Expected Stream Flow	Reserved Stream Flow	Instream Water Rights	Net Water Available
1	1640.00	26.10	0.10	1610.00	0.00	595.00	1020.00
2	1970.00	26.20	0.10	1940.00	0.00	595.00	1350.00
3	1860.00	25.40	0.10	1830.00	0.00	595.00	1240.00
4	1060.00	25.50	0.11	1030.00	0.00	595.00	439.00
5	545.00	26.20	0.15	519.00	0.00	595.00	-76.30
6	277.00	27.70	0.25	249.00	0.00	350.00	-101.00
7	148.00	29.10	0.34	119.00	0.00	213.00	-94.40
8	98.50	28.40	0.09	70.00	0.00	129.00	-59.00
9	81.30	26.60	0.09	54.60	0.00	101.00	-46.40
10	104.00	25.50	0.09	78.40	0.00	450.00	-372.00
11	457.00	25.70	0.10	431.00	0.00	595.00	-164.00
12	1820.00	26.20	0.10	1790.00	0.00	595.00	1200.00
Stor	1270000	19200	97	1260000	0	326000	948000

Permit Extension Ground Water Review

Date: June 27, 2003
To: Fred Lissner, Ground Water Section Manager
From: Lisa Juul, Permit Extension Review
Subject: Ground Water Review Needed for File #G- 3361 / Permit #G- 3240

The above referenced permit is currently being reviewed for an extension of time. Before I can determine whether or not an extension of time should be granted, however, a Ground Water review for this file is necessary due to the following:

NOTE: Original Division 9 review completed by: N/A

- ☒ No Division 9 Ground Water Review Done.... *please see below*
- ☐ Located within a **Critical** Ground Water Area
- ☐ Located within a Ground Water **Limited** Area
- ☐ Located within a Ground Water **Study** Area
- ☐ 5-Year Limited Permit
- ☐ Other: _____

For Ground Water / Hydrology Staff Use: DN 7.3.03

☒ YES ☐ NO

Please complete a Div. 9 and Scenic Waterway (SWW) Review for this file. Due to the early priority date associated with this permit, no prior Div. 9 or SWW review was ever done.

Please answer the following questions. If necessary, attach an additional sheet.

1. Should any additional conditions be added to this permit? SEE MEMO 7.3.03
2. Should the extension of time request be further conditioned or **DENIED** due to ground water supply concerns? NO
3. Should the Department establish a new reference level for water level declines due to the failure of permittee to submit annual measurements? NO
4. Other issues or concerns? —

Oregon

WATER
RESOURCES
DEPARTMENT

December 18, 1995

HARBOR RURAL WATER DISTRICT
PO BOX 2437
HARBOR OR 97415

REFERENCE: File G-3361

Your application for extension of time to complete work under Permit Number G-3240 along with your check in the amount of \$100 has been received. Our Receipt Number 130288 is enclosed.

Your request is approved by Special Order Volume 49, Page 448. The time limit for completion of work is extended to October 1, 2000.

Certain water right holders that serve as water suppliers may be required to submit water management and conservation plans at some point in the future. You should be advised that the Water Resources Commission may adopt administrative rules that will require you to prepare and submit such plans in the future.

If you are interested in receiving periodic information concerning the conservation program or the development and adoption of management and conservation rules, please contact the Water Conservation staff at the Salem office of the Water Resources Department.

If you have questions concerning this extension or other water right matters, please call the Water Rights/Adjudication Division. All Divisions of the Department may be reached at the following telephone numbers:

1-800-624-3199 (toll-free) or 1-503-378-3739

Sincerely,

Dallas S. Miller
Water Rights Specialist

DSM:jh

enclosure



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **130288**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: NOAA, WILSON
BY: 100

APPLICATION	5-5501
PERMIT	5540
TRANSFER	

CASH: ☐ CHECK: # 24 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 5501

01-00-0 WRD MISC CASH ACCT

842.010	ADJUDICATIONS	\$
831.087	PUBLICATIONS / MAPS	\$
830.650	PARKING FEES Name / month	\$
	OTHER: (IDENTIFY)	\$

REDUCTION OF EXPENSE

COST CENTER AND OBJECT CLASS

CASH ACCT.

VOUCHER #

03-00-0 WRD OPERATING ACCT

840.001	MISCELLANEOUS COPY FEES	\$
850.200	RESEARCH FEES	\$
880.109	MISC REVENUE: (IDENTIFY) <u>EXEMPTION</u>	\$ <u>1002</u>
520.000	OTHER (P-6) (IDENTIFY)	\$

WATER RIGHTS:

842.001	SURFACE WATER
842.003	GROUND WATER
842.005	TRANSFER

WELL CONSTRUCTION

842.022	WELL DRILL CONSTRUCTOR
	LANDOWNER'S PERMIT

OTHER (IDENTIFY) _____

EXAM FEE

\$
\$
\$
\$
\$

842.002
842.004
842-006
842.023
842.024

RECORD FEE

\$
\$
\$
\$
\$

LICENSE FEE

06-00-0 WELL CONST. START FEE

842.013	WELL CONST START FEE	\$
	MONITORING WELLS	\$
	OTHER (IDENTIFY)	

CARD #	
CARD #	

45-00-0 LOTTERY PROCEEDS

864.000	LOTTERY PROCEEDS	\$
---------	------------------	----

07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011	POWER LICENSE FEE (FW/WRD)	\$
842.115	HYDRO LICENSE FEE (FW/WRD)	\$
	HYDRO APPLICATION	\$

RECEIPT # **130288**

DATED: 11-15-95 BY: J. Smith

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

G 3341

Harbor Rural Water

G 4
Request

1 - A well Domestic 3.5 cfs

2 - Well, lines etc in, Replace 394 meters, in new pump controls, in 2300' 8" pipeline.

3 - No spec. cond.

4 Muni - DOM

5 1,000,000 GPD = 1.5 cfs 43%

6 No info

7
8
9
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13 No cond. last ext.

OK B-C 10-1-2000 DSM
Muni

Application for Extension of Time

RECEIVED

TO THE WATER RESOURCES DIRECTOR OF OREGON

NOV 15 1995

WATER RESOURCES DEPT.
SALEM, OREGON

I, Harbor Water P.U.D.
Name
P.O. Box 2437
Mailing Address
Harbor, OR 97415
City State Zip

record owner of water permit No. G3240, do hereby request that the time in which to:

- ☒ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1995, be extended to October 1, 2000; and/or the time in which to
- ☐ accomplish beneficial use of water to the full extent now intended under the terms of said permit, which time now expires on October 1, 19__, be extended to October 1, . . .

I have accomplished the following described works and/or purchase and installation of equipment necessary to the use of water under said permit:

- (1) within the past year Changed out 394 3/4" residential water meters.
Installed pump controls and alarms on the high level 300,000 gal.
reservoir.;
- (2) prior to this past year Installed pump controls and alarms on E. Benham Lane
reservoir. Installed 8-inch C-900 line on Hall Way - 2,300 L.F.
Changed out 211 3/4" residential water meters.;
- (3) and have accomplished beneficial use of water to the extent of (IF FOR IRRIGATION, STATE HOW MANY ACRES HAVE BEEN IRRIGATED) _____

(If additional space is required, attach separate sheet)



Delbert R. Buell, Manager

(If signing for a corporation please identify your title)

Dated November 2, 1995

MAIL COMPLETED APPLICATION AND STATUTORY FEE
OF \$100.00 FOR EACH PERMIT TO:

Water Resources Department
3850 Portland Road N.E.
Salem, Oregon 97310

OK B-6 10-1-2000
DSM MUNI

June 20, 1994

WATER
RESOURCES
DEPARTMENT

«DATA MacintoshHD: MiscData:Conservation:ExtNames»
«name»«IF street»
«street»«ENDIF»
«city», «st» «zip»

You recently received an extension of time to complete work under Permit «permno». In our letter notifying you of the extension, we indicated that you were required to prepare conservation and long-term water supply plans. We have since re-evaluated our requirements for extensions and have decided not to require the preparation of the plans at this time.

This change does not relieve municipal water suppliers from compliance with a similar condition which was included in many recently issued water use permits. The Water Resources Commission has recently authorized hearings on rules which will provide standards and criteria for the plans required under the permit conditions. A copy of the hearing notice is enclosed. You should be aware that, at some point in the future, the Commission may consider the adoption of rules extending the requirement for preparation of plans to other municipal water suppliers.

While we are not requiring water management and conservation plans as a condition of time extensions, we still encourage you to consider preparing a plan. Because of current demands, there is little water available for new appropriations from many streams in the state. As a result, many communities will have to rely on alternate sources of water such as conservation, storage or acquisition and transfer of existing water rights to support continued growth. The planning approach which is reflected in the rules is already providing many cities with an effective framework within which to identify future needs for water and to evaluate alternatives for meeting those needs.

We welcome the opportunity to work with local water suppliers in evaluating their future water supply options. Please contact Jack Donahue at 378-8455 extension 283 if you have any questions or would like our advice and guidance in preparing a water management and conservation plan.

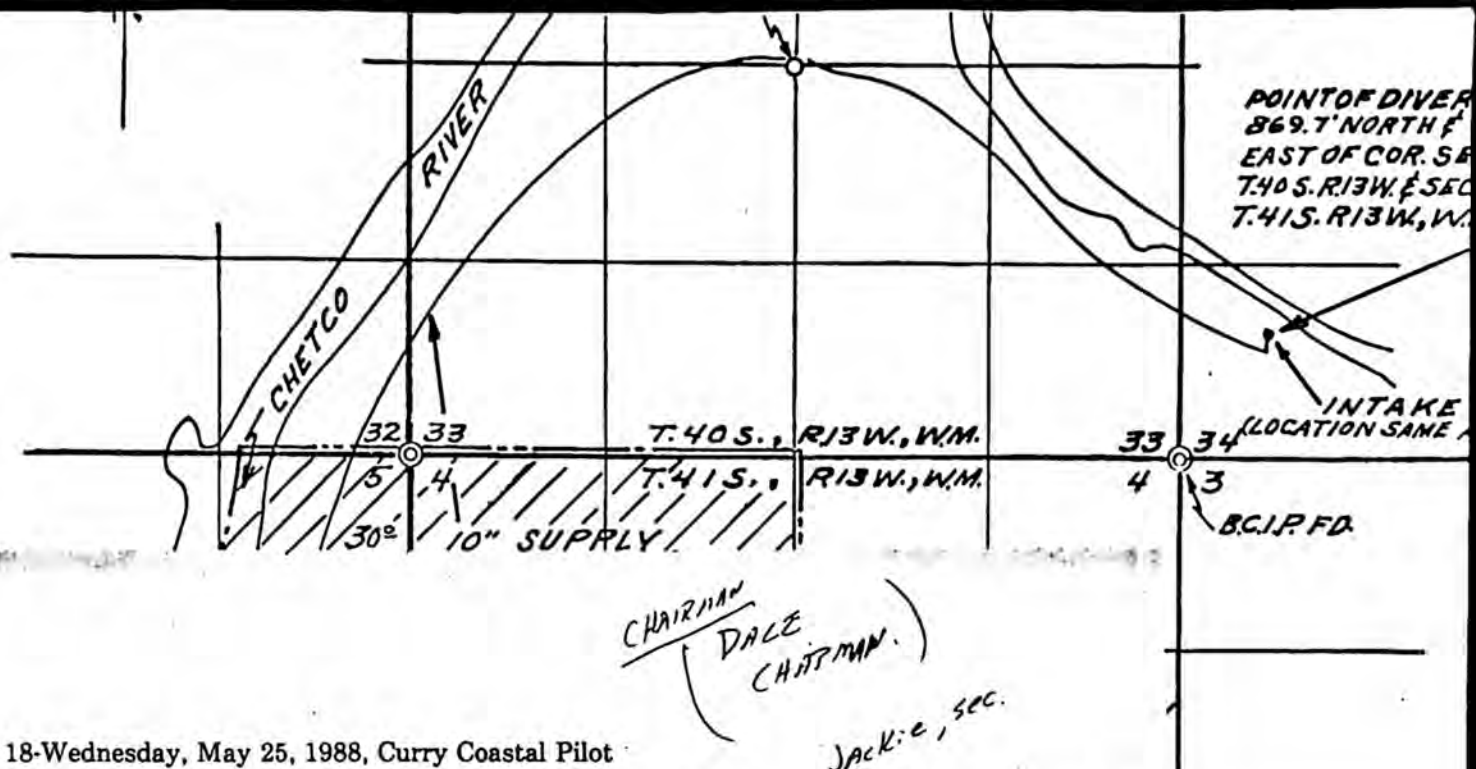
Sincerely,

Douglas M. Parrow
Conservation/Basin Planning Manager

Enclosure



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130



Page 18-Wednesday, May 25, 1988, Curry Coastal Pilot

New superintendent hired

Jay Whisler, 40, of Gleneden Beach, Ore., will start work next Wednesday (June 1) as the new superintendent of the Harbor Water District.

Whisler was hired from a field of 40 applicants for the position. He will work with current superintendent Ray Ratliff for a month, before Ratliff's retirement June 30.

Whisler currently is assistant superintendent of a water district serving Kernville, Gleneden Beach and Lincoln City. He has been with that water district since 1973.

Whisler will be salaried at \$26,500.

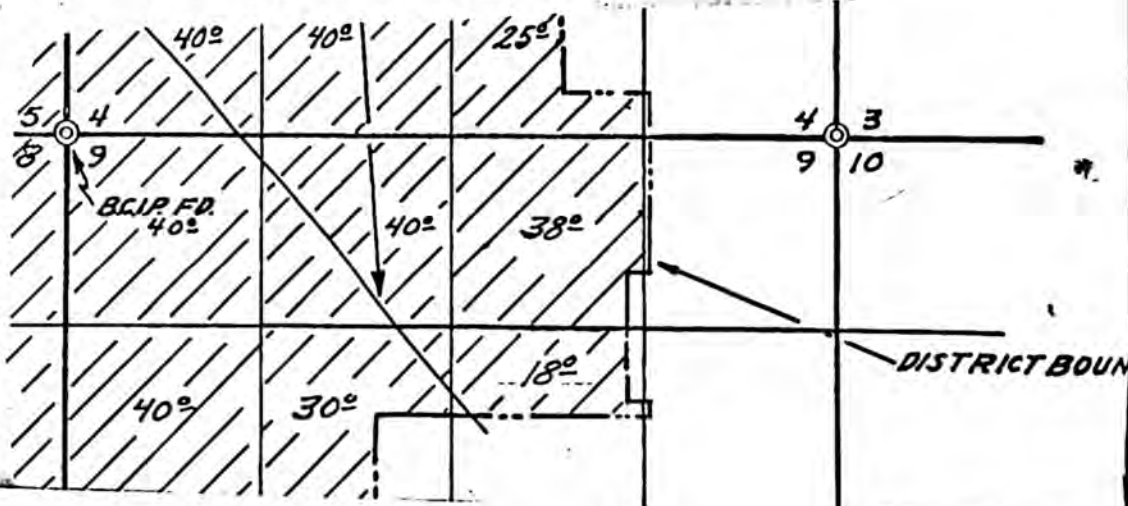
He has been married 16 years, and has a 10-year-old daughter.

As superintendent, Whisler will be responsible for new water main installations, repairs and pump station main-

It provides service to 2,200 units and approximately 3,000 people.

Whisler has been a volunteer firemen for 16 years, and is captain of the Gleneden Beach Fire

Department. He also is a certified emergency medical technician. He plans to join the Harbor Volunteer Fire Department, according to (Jackie Adams,) water district office manager.



April 30, 1991

Harbor Rural Water District
P.O. Box 2437
Harbor OR 97415

REFERENCE: Files G-3361, 41825 and 58045

We received your applications for extension of the time to complete work under Permits G-3240, 31365, and 43837. We also have your check for \$300. Our receipts number 59117, 59118, and 69727 are enclosed.

Your requests are approved. The time limits under these permits are extended to October 1, 1995.

Oregon Administrative Rules (OAR) 690-410-060, (enclosed), requires water suppliers, such as you, to prepare water conservation management plans. The schedules, standards and procedures for the development of management plans will be adopted in rule form in the near future. These rules also require you to notify the Commission of your plans to assure a long-term water supply.

Accordingly, before future extension requests will be approved, there are two requirements:

1. You will need to submit a plan describing the schedules, standards, and procedures for your water conservation management plans. This will need to be done within your time extension period following the date the Water Resources Commission adopts these rules.
2. You will need to prepare a plan/timetable for the Water Resources Commission which shall indicate the steps you intend to pursue to obtain a long-term water supply. This will need to be done by October 1, 1995.

If you have any questions, please call the Department's Water Rights Section at 378-3739.

LHN:jh

Enclosure



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX 378-8130

Application for Extension of Time

TO THE WATER RESOURCES DIRECTOR OF OREGON

OCT 05 1989

I, Harbor Rural Water District
Name
P.O. Box 2437
Mailing Address
Harbor, OR 97415
City State Zip

record owner of water permit No. G-3240, do hereby request that the time in which to:

- ☒ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1989, be extended to October 1, 1994; and/or the time in which to
- ☐ accomplish beneficial use of water to the full extent now intended under the terms of said permit, which time now expires on October 1, 19__, be extended to October 1, 19__

I have accomplished the following described works and/or purchase and installation of equipment necessary to the use of water under said permit:

- (1) within the past year installed 3056 feet of (D.I.) 12" main line - installed 3140
feet of (D.I.) 16" main line - 86 new service connections - in preparation for
the development of the out-of-district subdivision, (over)
- (2) prior to this past year installed 1570 feet of 12" main line - installed
1245 feet of 16" main line - replaced 4,615 feet of 2" main line
with 6" main line on 6 streets - 500 feet of 6" C-900 for Sandpiper, Sub.
C-900 - 153 new service connections.
- (3) and have accomplished beneficial use of water to the extent of (IF FOR IRRIGATION, STATE HOW MANY ACRES HAVE BEEN IRRIGATED) _____

(If additional space is required, attach separate sheet)

Randall K. Zerkow Secretary
 (If signing for a corporation please identify your title)

Dated September 25, 1989

MAIL COMPLETED APPLICATION AND STATUTORY FEE
 OR ~~FOR~~ EACH PERMIT TO.

Water Resources Department
 3850 Portland Road N.E.
 Salem, Oregon 97310

#59117
 \$100.-
 10/5/89

Sec T12E 41825

1412 L 12/4/85

Abstract of Permit No. G-3240

Application No. G-3361 Certificate No.

Name Harbor Rural Water District 469-3011
 Address P. O. Box 239 2437
 Harbor, Oregon 97415
 Source of water supply a well
 Use domestic
 Point of diversion 869.7' N. & 621.5' E. from SW cor. Sec. 34, being within S½
 S½, Sec. 34, T. 40 S., R. 13 W., N. H., county of Curry
 Number of acres

DESCRIPTION OF LAND TO BE IRRIGATED OR PLACE OF USE

Twp.	Range	Sec.	NE¼				NW¼				SW¼				SE¼			
			NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼	NE¼	NW¼	SW¼	SE¼
41S	13W	4					X	X	X	X	X	X	X	X			X	
		5	X		X	X									X	X	X	X
		8	X	X	X	X									X			
		9		X	X		X	X	X	X	X	X						

Priority date January 28, 1966
 Amount of water 3.5 c.f.s.
 Time limit to begin construction February 23, 1968
 Time limit to complete construction 10-1-68 extended to 10/1/89 extended to
 Time limit to completely apply water 10-1-69 extended to 10/1/89 extended to

Remarks: The diversion point herein described is identical to that under Permit No. 31365 and the total quantity of water withdrawn under this permit together with the quantity under Permit No. 31365 shall not exceed 3.5 cubic feet per second.

15 15 150 150 150 150

Aug 1989 = 1375-1380 WATER USERS

Abstract

Date 8-28-89

TO:

Steve Applegate

FROM:

Medford Survey person's

CHECK

☐ Approval
☐ Necessary Action
☐ Prepare Reply
☐ For My Signature
☐ Your Signature
☐ Comment
☐ Initial and Return

☐ Investigate
☐ Confer
☐ Per Telephone Conversation
☐ For Your Information
☐ As Requested
☒ Note and File
☐ Return With More Details

Application N

Name

Harbor News
P. O. Box 4
Harbor, Cr

Address

Source of water supply

a well

Use

domestic

Point of diversion

869.7' N.
Sw&, Sec.

Number of acres

DESCRIPTION OF I

[illegible]

COMMENTS:

Remember to take off reflex
COUNT.

Sent x letter - if no reply 8/31/82
Send back out for survey - LHM

01-125-1500

Priority date

January 28, 1966

Amount of water

3.5 c.f.m.

Time limit to begin construction

February 23, 1968

Time limit to complete construction 10-1-68 extended to 10/1/89 extended to

Time limit to completely apply water 10-1-69 extended to 10/1/89 extended to

Remarks: The diversion point herein described is identical to that under Permit No. 31365 and the total quantity of water withdrawn under this permit together with the quantity under Permit No. 31365 shall not exceed 3.5 cubic feet per second.

Aug 1989 = 1375-1380 WATER
USERS



Water Resources Department

3850 PORTLAND ROAD NE. SALEM OREGON 97310

PHONE

378-3739

August 31, 1989

Harbor Rural Water Co. 11114
PO Box 2157
Harbor, OR 97113

REFERENCE: File 31501 and 31502

Enclosed is an application for requesting an extension of the time limits imposed on Permits 31501 and 31502.

The Water Resources Director is permitted by law to extend the time for completion of a project only upon a showing of reasonable diligence by the permittee. Therefore, please complete this application in detail describing what has been accomplished.

The application must be received in this office with the statutory filing fee of \$100 for each permit.

Sincerely,

Steven P. Applegate
Field Crews Supervisor

SPA:cle

Enclosure



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8508

January 24, 1985

Harbor Rural Water District
PO Box 2437
Harbor, OR 97415

REFERENCE: File Number G-3361

Gentlemen:

Your application for an extension of the time limits in which to complete construction and make complete application of water under the terms of your Permit Number G-3240 was received. We also have your check in the amount of \$100.

The application indicates reasonable diligence has been exercised toward completion of the proposed project; therefore, the time limits to complete construction and make complete application of water are being extended to October 1, 1989.

Sincerely,

Bruce A. Estes, Supervisor
Survey/Certificate Section

BAE/jw

Enclosure

Application for Extension of Time

RECEIVED

NOV 0 11984

TO THE WATER RESOURCES DIRECTOR OF OREGON

WATER RESOURCES DEPT
SALEM, OREGON**RECEIVED**
JAN 23 1985
WATER RESOURCES DEPT
SALEM, OREGONHARBOR RURAL WATER DISTRICT

Name

P.O. BOX 2437

Mailing Address

HARBOR

City

OREGON

State

97415

Zip

record owner of water right permit No. G-3240, do hereby request that the time in which to:

- ☐ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 19....., be extended to October 1, 19.....; and/or the time in which to
- ☒ accomplish beneficial use of water to the full extent now intended under the terms of said permit, which time now expires on October 1, 19⁸⁴, be extended to October 1, 19⁸⁹

I have accomplished the following described works and/or purchase and installation of equipment necessary to the use of water under said permit:

within the past year 24,775 feet of main line has been installed - one

250,000 gallon storage tank - and 121 new service connections

prior to this past year 8,677 feet of main line has been installed - one

750,000 gallon storage tank and 300,000 storage tank -

269 new service connections - one well and pump station

and have accomplished beneficial use of water to the extent of (IF FOR IRRIGATION, STATE HOW MANY ACRES HAVE BEEN IRRIGATED) by phone max use in 89 1 mgd

(If additional space is required, attach separate sheet)

Ray R. R. R.
(If signing for a corporation please identify your title)

Dated

10-29-84

MAIL COMPLETED APPLICATION AND STATUTORY FEE
OF \$100- FOR EACH PERMIT TO:

\$100-

Water Resources Department
Mill Creek Office Park
555 13th Street, N.E.
Salem, Oregon 97310

#100-
#44517
Nov. 1, 1984

B-C
10-1-84
DAS



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8508

January 3, 1984

Mr. Ray Ratliff, Water Superintendent
Harbor Rural Water District
PO Box 2437
Harbor, OR 97415

REFERENCE: Files Numbered G-3361, 41825, and G-9502

Dear Mr. Ratliff:

We've received applications for extension of time on Permits Numbered G-3240, 31366, and G-9438 along with the statutory fee of \$100 for each permit.

A copy of previous extensions for the earlier permits is enclosed for your reference. Please enter any additional information to bring us up to date on the projects. I don't see any problem to granting the extensions but we should have current information in the files.

Thank you for your efforts.

Sincerely,

Bruce A. Estes, Supervisor
Survey/Certificate Section

BAE/jw

Enclosures

Application for Extension of Time **RECEIVED**

TO THE WATER RESOURCES DIRECTOR OF OREGON

NOV 16 1979

WATER RESOURCES DEPT
SALEM, OREGONI, HARBOR RURAL WATER DISTRICT

Name

P. O. Box 2437

Mailing Address

Harbor

City

Oregon

State

97415

Zip

record owner of water right permit No. G3240, do hereby request that the time in which to:☒ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1979, be extended to October 1, 1984, and/or the time in which to☒ accomplish beneficial use of water to the full extent now intended under the terms of said permit, which time now expires on October 1, 1979 be extended to October 1, 1984

I have accomplished the following described works and/or purchase and installation of equipment necessary to the use of water under said permit:

within the past year 2000 Feet of Main Line has been installed and 36Service Connections added.prior to this past year February 1975 to February 1978, 3000 Feet of MainLine has been installed and 214 Service Connections added.and See Application for Extension of Time dated February 7, 1975.and have accomplished beneficial use of water to the extent of 45 ACRES FOR IRRIGATION, STATE HOW MANY
ACRES HAVE BEEN IRRIGATED) 960 Service Connections as ofNovember 1, 1979.

(If additional space is required, attach separate sheet)

Leo B. Lightle Manager

(If signing for a corporation please identify your title)

Dated 11/15/79MAIL COMPLETED APPLICATION AND STATUTORY FEE
OF \$10.00 TO:Water Resources Department
Mill Creek Office Park
555 13th Street, N.E.
Salem, Oregon 97310B-C
10-1-84
DAEReceipt 12034
\$10.00
11-15-79



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 378-8508

October 25, 1984

Mr. Ray Ratliff, Water Superintendent
Harbor Rural Water District
PO Box 2437
Harbor, Oregon 97415

REFERENCE: Files Numbered G-3361, 41825, and G-9502

Dear Mr. Ratliff:

I am enclosing a form for use in making application for an extension of time limits under Permits Numbered G-3240, 31365 and G-9438

The Water Resources Director is permitted by law to extend the time for completion of a project only upon a showing of reasonable diligence by the permittee. Therefore, you should fill out this application carefully and completely describing what has been accomplished.

The application must be submitted to this office with the statutory filing fee in the amount of \$100 for each permit.

Sincerely,

BRUCE A. ESTES, Supervisor
Survey/Certificate Section

BAE:wpc

690-10-115
6164A



While You Were Out

To

Bruce

Date

10/30/84

Time

11:47

called
of

Jackie Adams

called

Harbor Water Dist.

Phone

469-3011



Telephoned



In person



Please call



Wants to see you



Will call again



Returned your call

10/30
Message

1 pump station

Del Chapman

13 Range collector 6 million

11 million yd

35 to 42' deep

feels primarily ground water

Taken by

Jim



Harbor Rural Water District

469-3011

discussed these with Jackie Adams, Sec,
& Ray Ratliff, water superintendent, 23 Oct 84.

Appl. No. G-3361

Ray said max use in 84 was 1 mgd (1.547 cfs) so
I recommended extending all permits except 58045
which currently has until 10-1-85.

Per. No G-3240

Rain collector was moved in 79 or 80 to new site. ~~AE~~ I called
J.K. Dole to contact them about permanent abandonment.

3.5 cfs from a well for domestic 1-28-66

Appl. No 41825

Permit No 31365

1-28-66

3.5 cfs from Chetco River for quasi-municipal

Appl. No. 58045

Permit No. 43837

10-26-78

7.0 cfs from Chetco River for municipal

Appl. No G-9502

1-3-80

7.0 cfs from a well for quasi-municipal



Water Resources Department

MILL CREEK OFFICE PARK

555 13th STREET N.E., SALEM, OREGON 97310

PHONE 373-3503

December 10, 1979

✓G-3301
41825

Leo B. Lightle, Manager
Harbor Rural Water District
P.O. Box 2437
Harbor, Oregon 97415

Dear Mr. Lightle:

Your application for an extension of the time limits in which to complete construction and make complete application of water under the terms of your permits numbered G-3240 and 31365 was received. We also have your check in the amount of \$20.00.

The application indicates reasonable diligence has been exercised toward completion of the proposed projects; therefore, the time limits to complete construction and make application of water under both permits are being extended to October 1, 1984.

Sincerely,

Bruce A. Estes, Supervisor
Survey/Certificate Section

BAE:kas

Enc.

COPY

G 3361
41825

February 18, 1975

Mr. Albert Mincer, Chairman
Harbor Rural Water District
P. O. Box 2437
Harbor, Oregon 97415

Dear Mr. Mincer:

This will acknowledge your application for an extension of the time limits in which to complete construction and make complete application of water under the terms of your permits Nos. G 3240 and 31365, and your fees in the amount of \$10.00 for which our receipt No. 45201 is enclosed.

The application indicates reasonable diligence has been exercised toward completion of the proposed project; therefore, the time limits to complete construction and make complete application of water are being extended to October 1, 1979 under both permits.

Also enclosed is a copy of permit No. 31365 and our receipt No. 45203 covering \$1.75 copying fees.

Very truly yours,

Trevor Jones
Assistant

TJ:whh

Enc: Receipt No. 45201 \$10.00
Receipt No. 45203 \$ 1.75
Copy permit No. 31365

Harbor Rural Water District

P.O. Box 2437, Harbor, Oregon 97415

RECEIVED

FEB 11 1975

STATE ENGINEER
SALEM, OREGON

February 7, 1975

STATE ENGINEER
Water Resources Department
1178 Chemeketa Street N. E.
Salem, Oregon 97310

Attn: Chris L. Wheeler, State Engineer

Dear Mr. Wheeler:

Enclosed are application forms G 3361 and 41825 for Extension of Time under permits G-3240 and 31365. We trust these are in order and regret their delay.

Since we do not have a copy of Permit #31365, will you kindly make a copy for our files.

Our check #1809 for the sum of \$11.75 is also enclosed to cover the cost of the two application fees @ 5.00 each plus \$1.75 for a copy of permit #31365.

Sincerely,

HARBOR RURAL WATER DISTRICT



Albert Mincer, Chairman

FEB 11 1975
STATE ENGINEER
SALEM, OREGON

Application No. G 3361

Application for Extension of Time

To the State Engineer of Oregon:

I, Harbor Rural Water District, of Harbor
state of Oregon, am the owner and holder of Permit No. G 3240, to
appropriate the public waters of the state of Oregon.

Under the terms and conditions of said permit, construction work is required to be completed on or
before 10/1/, 1974, and complete application of water is required to be
made on or before 10/1/, 1974.

I have heretofore done the following work described under said permit during the past year:
20,000 gal. res. tank; pump sta.; 2,000 C. F. 6" pipe

and did the following work prior to last year: EXTENSION OF ORIGINAL SYSTEM:
8,700 C. F. 10" pipe; 27,000 C. F. 8" pipe; 16,000 C. F. 6"
pipe; 7,000 C. F. 2" pipe; plus (see application of 10/1/68)

costing \$780,000, and I estimate the cost of completion to be \$1,250,000.

I have heretofore used water under said permit to the following extent: 650 Service
Connections as of October 1, 1974; Maximum month was 10 million
gallons.

I am unable to ~~complete construction work~~ } within the required time, for the following
make complete application of water }
(Strike out phrase not applicable)

reasons, to wit: The area within the District has not developed to its
full potential. Additional pumps and storage tanks, distribution
lines etc. will be installed as required in the future.

(If additional space is required, attach separate sheet)

\$5.00 FEE PAID

REC. NO. 45201

DATE 2-11-75

(A fee of \$5.00 for each permit involved must accompany this application.)

(OVER)

Bd
10-1-79
X

1051

WHEREFORE, I ask that the State Engineer extend the time for the

{ ~~completion of construction work~~
complete application of water } under said permit to October 1, 1980.
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

STATE OF Oregon }
County of Curry } ss.

I, _____, being first duly sworn, depose and say that I have read the above and foregoing application for extension of time; that I know the contents thereof, and the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of February

_____, 1975.

Albert Mincer

Subscribed and sworn to before me this 7th day of February, 1975.

[Notarial Seal]

Marjorie Leeland
Notary Public for Oregon

My commission expires June 8, 1978

**STATE
ENGINEER**

WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

Harbor Rural Water District
P. O. Box 289
Harbor, Oregon 97415

File No. G 3361
41825

February 5, 1975

Gentlemen:

Pursuant to your request I am enclosing a form for use in making application for an extension of time limits under permit No. G 3240 and 31365.

Please be advised that the State Engineer is permitted by law to extend the time for completion of a project only upon a showing of due diligence by the permittee. Therefore, you should execute the application carefully and completely so that this office may determine from your sworn statement whether due diligence has been shown.

The application must be executed before a notary public and submitted to this office with the statutory filing fee in the amount of \$5.00 for each permit.

Upon receipt of the application, the matter of extending the time under the appropriation will be given further consideration and you will be advised of our action.

Very truly yours,



CHRIS L. WHEELER
State Engineer

Enclosure
Form 115

STATE ENGINEER

WATER RESOURCES DEPARTMENT

1178 CHEMEKETA STREET N.E. • SALEM, OREGON • 97310 • Phone 378-3739

Harbor Rural Water District
P. O. Box 289
Harbor, Oregon 97415

File No. G 3361
41825

February 5, 1975

Gentlemen:

Pursuant to your request I am enclosing a form for use in making application for an extension of time limits under permit No. G 3240 and 31365.

Please be advised that the State Engineer is permitted by law to extend the time for completion of a project only upon a showing of due diligence by the permittee. Therefore, you should execute the application carefully and completely so that this office may determine from your sworn statement whether due diligence has been shown.

The application must be executed before a notary public and submitted to this office with the statutory filing fee in the amount of \$5.00 for each permit.

Upon receipt of the application, the matter of extending the time under the appropriation will be given further consideration and you will be advised of our action.

Very truly yours,



CHRIS L. WHEELER
State Engineer

Enclosure
Form 115

● **SENDER:** Complete items 1 and 2.

Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

- ☒ Show to whom and date delivered..... 15¢
☐ Show to whom, date, & address of delivery.. 35¢
☐ DELIVER ONLY TO ADDRESSEE and
 show to whom and date delivered..... 65¢
☐ DELIVER ONLY TO ADDRESSEE and
 show to whom, date, and address of
 delivery 85¢

2. ARTICLE ADDRESSED TO:

Harbor Rural Water Dist
 P.O. Box 380

Hanford, OR 97415

3. ARTICLE DESCRIPTION:

REGISTERED NO. | CERTIFIED NO. | INSURED NO.

56452

(Always obtain signature of addressee or agent)

I have received the article described above.
 SIGNATURE

4. DATE OF DELIVERY

1/20/75
 H.R. 711.8.

POSTMARK

JAN
 20
 1975

5. ADDRESS (Complete only if requested)

Al Minier

6. UNABLE TO DELIVER BECAUSE:

CLERK'S
 INITIALS

AM

6-3361 & 4/825 4M

January 17, 1975

Harbor Rural Water District
P.O. Box 320
Harbor, OR 97415

G-3361
41825

According to the terms of your permit No. G-3240 and 31365 for the appropriation of 3.5 c.f.s. from a well for domestic use and 3.5 c.f.s. from Chetco R. for quasi municipal use, complete application of water was to have been made by October 1, 1974.

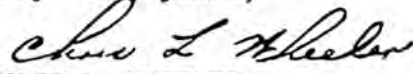
Complete application of water means the application of water to beneficial use under the permit to the full extent intended. In the case of irrigation, it means beneficial irrigation of all the lands the permittee intends to cover under the terms of the permit. If water has been used, you should promptly submit notice describing the extent of completion as set forth in the letter accompanying your permit and also in our postal card of October 15, 1974.

ORS 537.260 provides that: "Whenever the time within which any appropriation under a permit should have been perfected has expired and the owner of the permit fails or refuses within three months thereafter to submit to the State Engineer proof of completion of the appropriation as required by ORS 537.230 and 537.250, the State Engineer may, after 60 days' notice by registered mail, order the cancelation of the permit.*****"

In accordance with the provisions of ORS 537.260, you are hereby notified that unless proof of beneficial use is received within 60 days from the date of this letter, the permit(s) may be canceled without further notice.

If for any reason you are no longer interested in the project described by the permit, we would appreciate it if you would so advise. If the property involved has changed hands and any part of the project has been completed, you should immediately assign the permit to the new owner and advise us of his name and address. An assignment form will be furnished upon request.

Very truly yours,


CHRIS L. WHEELER
State Engineer

Form 100
Certified
Return receipt requested

41825
G-3361

January 20, 1970

CBS Engineering
512 West Sixth Street
Medford, Oregon 97501

ATTENTION: Clifford B. Shaw, Consulting Civil Engineer

Dear Mr. Shaw:

I apologize for the delay in responding to the application for extension of the time limits in the name of Harbor Rural Water District for permits numbered 31365 and G-3240. The application indicates that reasonable diligence has been exercised and the time limit to complete construction and complete the use of water is extended to October 1, 1974.

Permit No. 31365 describes the appropriation of 3.5 cubic feet per second of water from the Chetco River with the diversion point at the same point as described in permit No. G-3240. The quantity of water that can be withdrawn under both permits is 3.5 cubic feet per second of water and the cross filing made to cover the withdrawal of water from the river or from the ground water. We can furnish a copy of this permit if you wish, but we must collect the statutory copying fee of \$1.75 before sending out the copy.

Our receipts numbered 17433 and 17434 for \$5.00 paid with each extension of time are enclosed.

Very truly yours,

Trevor Jones
Assistant

TJ:slv

Enclosures

Clifford B. Shaw
Consulting Civil Engineer

HARBOR RURAL WATER DISTRICT

PO BOX 2437
HARBOR, OREGON 97415
CBS ENGINEERING
512 West Sixth Street
Medford, Oregon 97501

RECEIVED
JAN 6 1970
STATE ENGINEER
SALEM, OREGON

Area Code 503
Office 779-4641
NEW PHONE
779-3077

December 30, 1969

Mr. Chris L. Wheeler
State Engineer
Water Resources Department
516 Public Service Building
Salem, Oregon 97310

Re: Your File No. 41825
G-3361
Harbor Rural Water District

Dear Mr. Wheeler:

Transmitted herewith is the completed form for Application for Extension of Time for Permits No. 31365 and G-3240, and the Districts Check in the amount of \$10.00.

The District has already submitted Form B, Notice of Completion of Construction. The District interprets this to mean completion of construction of the initial water system, and not for a water system to serve future complete development. This has been corrected on the enclosed form for Application for Extension of Time.

The District has only one permit in their files, which is Permit No. G-3240 for ground waters. It is my understanding that Permit No. 31365 is for surface waters. Please send the District a copy of Permit No. 31365.

Please contact us if you require any additional information.

Yours very truly,


Clifford B. Shaw
Consulting Civil Engineer

CBS:ch

Enclosures

cc: Harbor Rural Water District

RECEIVED
JAN 6 1970
STATE ENGINEER
SALEM OREGON

41825
Application No. G-3361

Application for Extension of Time

To the State Engineer of Oregon:

I, Harbor Rural Water District, of Harbor 31365
state of Oregon, am the owner and holder of Permit No. G-3240, to
appropriate the public waters of the state of Oregon.

Under the terms and conditions of said permit, construction work is required to be completed on or
before October 1, 1968, and complete application of water is required to be
made on or before October 1, 1969.

I have heretofore done the following work described under said permit during the past year:

None

and did the following work prior to last year: 21,000 C.F. of 10" pipe; 17,000 C.F.
of 8" pipe; 13,000 C.F. of 6" pipe; 12,550 C.F. of 2" pipe; 34 hydrants,
one 500,000 gal. reservoir tank, one 200,000 gal. reservoir tank, Chetco
River Intake (two 450 gpm, 40 HP pumps); High Level Pump Station (two
200 gpm, 15 HP pumps)
costing \$ 350,000, and I estimate the cost of completion to be \$ 500,000.

I have heretofore used water under said permit to the following extent: 265 Service
Connections as of October 1, 1969; Maximum Month was 3 million gallons.

I am unable to {complete construction work } within the required time, for the following
{make complete application of water }
(Strike out phrase not applicable)

reasons, to wit: The area within the District has not developed to its full
potential. Additional pumps, storage tanks and distribution mains
will be installed as required in the future.

(If additional space is required, attach separate sheet)

\$5.00

(A fee of \$5.00 for each permit involved must accompany this application.)

\$5.00 FEE PAID

REC. NO. 17434

DATE 1-6-70

\$5.00 FEE PAID

(OVER) REC. NO. 17433

DATE 1-6-70

1310
10-1-74
600

WHEREFORE, I ask that the State Engineer extend the time for the

{ completion of construction work }
{ complete application of water } under said permit to October 1, 19 74
(Strike out phrase not applicable)

AFFIDAVIT OF APPLICANT

STATE OF Oregon
County of Curry } ss.

I, Albert Mincer, being first duly sworn, depose and say that I have read the above and foregoing application for extension of time; that I know the contents thereof, and the facts stated therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of January, 1970.

HARBOR RURAL WATER DISTRICT

Albert Mincer
Chairman, Board of Commissioners

Subscribed and sworn to before me this 5th day of January, 19 70.

[Notarial Seal]

Marjorie Lenhard
Notary Public for Oregon

My commission expires June 8, 1970



STATE OF OREGON
STATE ENGINEER
WATER RESOURCES DEPARTMENT
516 PUBLIC SERVICE BUILDING
SALEM 97310

REFER TO
FILE NO. 21825
8-3364

November 112, 1969

Harbor Rural Water District
c/o Albert Mincer, Chairman
P. O. Box 2437
Harbor, Oregon 97415

Gentlemen:

Pursuant to your request I am enclosing a form for use in making application for an extension of time limits under permit No. 31365, and G-3240.

Please be advised that the State Engineer is permitted by law to extend the time for completion of a project only upon a showing of due diligence by the permittee. Therefore, you should execute the application carefully and completely so that this office may determine from your sworn statement whether due diligence has been shown.

The application must be executed before a notary public and submitted to this office with the statutory filing fee in the amount of \$5 for each permit.

Upon receipt of the application, the matter of extending the time under the appropriation will be given further consideration and you will be advised of our action.

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 115
Enclosure
mf



STATE OF OREGON

STATE ENGINEER

WATER RESOURCES DEPARTMENT

516 PUBLIC SERVICE BUILDING

SALEM 10

October 2, 1963

REFER TO G-3361
FILE NO.

Harbor Rural Water District
P. O. Box 320
Harbor, Oregon 97415

Gentlemen:

This will acknowledge the notice of completion
of construction under the terms of permit No. C-3240.

Under the provisions of the permit, the time
limit for completion of the appropriation by accomplishing
the authorized beneficial use of water to the full extent
intended will expire October 1, 1969. (In the case of
irrigation completion of the appropriation means at
least one beneficial irrigation of all the land to be
irrigated under the subject permit.)

Very truly yours,

CHRIS L. WHEELER
State Engineer

Form 119
ks



STATE OF OREGON
STATE ENGINEER
WATER RESOURCES DEPARTMENT
516 PUBLIC SERVICE BUILDING
SALEM 10

REFER TO 62-3862
FILE NO.

Oct 19, 1963

Mr. J. W. Smith, District

1000 1st St.

Medford, Oregon 97505

Re: Ordinance:

This will acknowledge the notice of beginning of construction under the terms of permit No. 62-3862.

Our records show the time limit for completion of construction of the works and/or the purchase and installation of all the facilities required for the authorized beneficial use of water will expire on October 1, 1964.

Very truly yours,

Chris L. Wheeler

CHRIS L. WHEELER
State Engineer

Form 118

ks

regret the delay but assumed the
;inner had attended to these matters.

RECEIVED
JUN 18 1968
STATE ENGINEER
CALIFORNIA

G-3361

March 13, 1967

Harbor Rural Water District
P. O. Box 289
Harbor, Oregon

G-3361, permit No. G-3240 with a blueprint.

April 17, 1933

Barber, Charles H. Esq.
1000 Union St.
Chicago, Ill.

Dear Sir:

With reference to your application for a
second license for the motor vehicle bearing
license number 10-100000, I have the honor to
acknowledge the same.

I have also the honor to acknowledge the
receipt of your application for a second
license for the motor vehicle bearing license
number 10-100000, and I have the honor to
acknowledge the same.

I am, Sir, very respectfully,
Yours very truly,
State Engineer

By
Larson W. Schouck, Assistant

Enclosures

WORTHINGTON ASSOCIATES INC.

Consulting Engineers

TELEPHONE : AREA CODE 503
PLAZA 3.4553

214 HOUT BUILDING

CORVALLIS, OREGON

January 24, 1966

State Engineer
Water Resources Department
516 Public Service Building
Salem, Oregon 97310

RECEIVED
JAN 28 1966
STATE ENGINEER
SALEM OREGON

Attention: Larry W. Jebousek, Assistant

Gentlemen:

Returned herewith in behalf of Harbor Rural Water District
are applications for permits to appropriate ground and surface waters.

Additional information has been supplied in accordance with
your letter of January 14, 1966, and checks for examination and record-
ing fees are enclosed.

Very truly yours,

WORTHINGTON ASSOCIATES INC.

Marlin J. DeHaas
Marlin J. DeHaas

MJD:em
Enclosures

67 33
415 35

January 14, 1966

Harbor Rural Water District
P. O. Box 289
Harbor, Oregon

Gentlemen:

This will acknowledge your application for a permit to appropriate 3.5 cubic feet of water per second from Chetco River for domestic water supply and the accompanying map.

Also acknowledged is your application for a permit to appropriate 3.5 cubic feet of water per second from two wells for domestic water supply.

These applications cannot be filed because the required fees were not submitted. As these applications are now written, each will require a \$10 examination fee and a \$16 recording fee.

Item 8 on the surface water application must be completed to describe the area to be served by the district.

Item 4 on the well application indicates the well is at the same point as the diversion from the Chetco River. The well must be shown on the map and its location described in Item 4 on the application.

If this is to be the same point as the Chetco River diversion, it should be further described in the remarks section.

Item 12 must also be completed.

I am returning your applications and map herewith.

Very truly yours,

CHRIS L. WHEELER
State Engineer

By
Larry W. Jebousek, Assistant

LWJ:bs
Enclosures