

FILE#: S 73081

CK B FEENEY
ENEY, JESSIE L
D S BANK CHETCO RIVER
OOKINGS, OR 974

97415

Application No. 73081

Permit No. 52693

Certificate No. 84463

Stream Index, Page No. 15

Stream Index, Page No. 13
17-1540-0050
174 Chetco River

FEES PAID

Date	Amount	Receipt No.
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12/18/92	325.00	95212
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Cert. Fee

FEES REFUNDED

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

Date filed _____

Priority _____

Action suspended until FPD

Return to applicant _____

Date of approval _____

CONSTRUCTION

Date for beginning AUG 21 1997

Date for completion ACI 1 1961

Extended to _____

Date for application of water OCT 01 1999

Extended to _____

PROSECUTION OF WORK

Form "A" filed _____

Form "B" filed _____

Form "C" filed _____

FINAL PROOF

Blank mailed _____

Proof received _____

Date Certificate issued 8-8-2008

ASSIGNMENTS

Date	To Whom	Address	Volume	Page
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REMARKS

SMEAD 11 SP98874

STATE OF OREGON

COUNTY OF CURRY

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JACK B AND JESSIE L FEENEY
590 S BANK CHETCO RIVER
BROOKINGS OR 97415

confirms the right to use the waters of AN UNNAMED STREAM, A TRIBUTARY OF NELL CREEK for DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD.

This right was perfected under Permit 52693. The date of priority is DECEMBER 18, 1992. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.010 CUBIC FOOT PER SECOND (CFS) FOR DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD; FURTHER LIMITED TO 0.005 CFS FOR HUMAN CONSUMPTION DURING THE PERIOD LISTED BELOW, measured at the point of diversion.

Period of use is December 1 through July 31 for domestic use expanded; further limited from August 1 through November 30 to human consumption only.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
40 S	13 W	WM	24	SW NE			107 FEET NORTH & 2060 FEET WEST FROM E1/4 CORNER, SECTION 24

A description of the place of use to which this right is appurtenant is as follows:

DOMESTIC EXPANDED							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
40 S	13 W	WM	24	SW NE			0.00

Measurement, recording and reporting conditions:

- A. The Director may require the water user to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the water user to install a meter or other measuring device, the water user shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the water user shall maintain the meter or measuring device in good working order and shall allow the watermaster

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

access to the meter or measuring device. The Director may provide an opportunity for the water user to submit alternative measuring procedures for review and approval.

- B. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

The water user shall maintain and operate fish screening to prevent fish from entering the diversion.

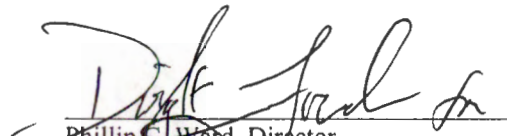
Failure to comply with any of the provisions of this right may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the right.

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

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

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

Issued AUG 08 2008.


Phillip C. Ward, Director
Water Resources Department

FINAL PROOF OF SURVEY

UNDER APP. S - 73081 PERMIT 52693

IN THE NAME OF JACK AND JESSIE FEENEY

LOCATED IN

RECEIVED

SW 1/4 NE 1/4 SEC. 24, T. 40 S., R. 13 W., W.M.

SEP 12 2000

WATER RESOURCES DEPT.
SALEM, OREGON



N

SCALE: 1" = 1320'

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION
OF THE WATER RIGHT. IT IS NOT INTENDED TO IDENTIFY
PROPERTY OWNERSHIP. FINAL PROOF SURVEY PERFORMED 8-16-2000
POINT OF DIVERSION LIES 107' N & 2060' W OF THE E 1/4 CORNER OF SEC. 24



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

Date Mailed: August 8, 2008

NOTICE OF CERTIFICATE ISSUANCE

The attached certificate confirms the water right established under the terms of a permit issued by this department. The water right is now appurtenant to the specific place where the use was established as described by the certificate. The water right is limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificate.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within **60 days of the mailing date stated above** as specified by ORS 183.484(2).

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

Under ORS 537.260 and 537.270, a water right certificate may be contested before the Water Resources Department within three (3) months of the date it is issued. If a certificate is contested, the qualifying contestant shall be offered an administrative hearing.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership of the appurtenant place of use. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years, that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Gerry Clark at 503-986-0811.

Mailing List for Certificate

Scheduled Mailing Date:

Application: S-73081

Permit: 52693

Certificate: 84463

Permit/Certificate Holder:

JACK B AND JESSIE L FEENEY ✓
590 S BANK CHETCO RIVER
BROOKINGS OR 97415

Copies Mailed

by: Diana Durbin
(STAFF)

on: 8-8-2008
(DATE)

Copies of Final Certificate to be sent to:

1. Watermaster District 19, Mitch E. Lewis ✓
2. Data Center (include copy of map) ✓
3. Water Availability ✓
4. Vault ✓
5. File ✓

Other persons to receive copies: (include map):

1. John Minor, CWRE ✓

MEMO

TO: FILE 73081

FROM: JG

DATE: 7-11, 2008

RE: DETERMINATION OF PROOF

I've determined that a DRAFT / FINAL cert should be prepared and mailed to the permit holder consistent with:

The Permit

The COBU/FPS

See PC

As described in the permit but as clarified by the COBU/FPS

As described in the PERMIT COBU/FPS but as further specified below.

84463

STATE OF OREGON

COUNTY OF CURRY

CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

JACK B AND JESSIE L FEENEY
590 S BANK CHETCO RIVER
BROOKINGS OR 97415

confirms the right to use the waters of AN UNNAMED STREAM for DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD.

This right was perfected under Permit 52693. The date of priority is DECEMBER 18, 1992. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 0.010 CUBIC FOOT PER SECOND (CFS) FOR DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD; FURTHER LIMITED TO 0.005 CFS FOR HUMAN CONSUMPTION DURING THE PERIOD LISTED BELOW, measured at the point of diversion.

The point of diversion is located as follows:

Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Survey Coordinates
40 S	13 W	WM	24	SW NE			107 FEET NORTH & 2060 FEET WEST FROM E1/4 CORNER, SECTION 24

A description of the place of use to which this right is appurtenant is as follows:

DOMESTIC EXPANDED							
Twp	Rng	Mer	Sec	Q-Q	GLot	DLC	Acres
40 S	13 W	WM	24	SW NE			0.00

Measurement, recording and reporting conditions:

- A. The Director may require the water user to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the water user to install a meter or other measuring device, the water user shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the water user shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the water user to submit alternative measuring procedures for review and approval.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may 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. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

- B. The Director may require the water user to keep and maintain a record of the amount (volume) of water used and may require the water user to report water use on a periodic schedule as established by the Director. In addition, the Director may require the water user to report general water use information, the periods of water use and the place and nature of use of water under the right. The Director may provide an opportunity for the water user to submit alternative reporting procedures for review and approval.

The water user shall maintain and operate fish screening, and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the diversion. *The water user shall maintain a fishway at the obstruction that will provide adequate upstream and downstream passage.*

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

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

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

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

Issued _____.

Phillip C. Ward, Director
Water Resources Department

Mailing List for Certificate

Scheduled Mailing Date:

Application: S-73081

Permit: 52693

Certificate: *****

Permit/Certificate Holder:

JACK B AND JESSIE L FEENEY
590 S BANK CHETCO RIVER
BROOKINGS OR 97415

Copies Mailed

by: _____
(STAFF)

on: _____
(DATE)

Copies of Final Certificate to be sent to:

1. Watermaster District 19, Mitch E. Lewis
2. Data Center (include copy of map)
3. Water Availability
4. Vault
5. File

Other persons to receive copies: (include map):

1. John Minor, CWRE

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-73081

Final Order

Application History

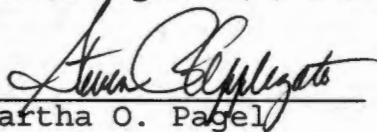
On December 18, 1992, JACK B. AND JESSIE L. FEENEY submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on May 14, 1996. The protest period closed June 28, 1996, and no protest was filed.

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

Order

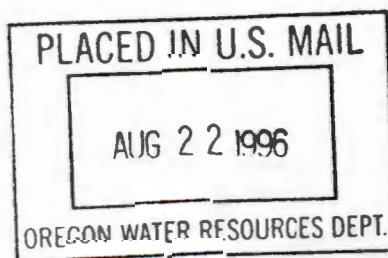
Application S-73081 therefore is approved as proposed by the Proposed Final Order, and Permit Number 52693 is issued as limited by the conditions proposed by the Proposed Final Order.

DATED August 21, 1996

for 
Martha O. Pagel
Director

Appeal Rights

Under the provisions of ORS 183.484, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.



STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JACK B FEENEY

JESSIE L FEENEY

590 S BANK CHETCO RIVER
BROOKINGS, OREGON 97415

(541)469-3075

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

APPLICATION FILE NUMBER: S-73081

SOURCE OF WATER: AN UNNAMED STREAM, A TRIBUTARY OF NELL CREEK

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD

MAXIMUM RATE/VOLUME ALLOWED: 0.01 CUBIC FOOT PER SECOND (CFS) FOR DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD; FURTHER LIMITED TO 0.005 CFS FOR HUMAN CONSUMPTION DURING THE PERIOD LISTED BELOW

PERIOD OF USE: DECEMBER 1 THROUGH JULY 31 FOR DOMESTIC USE EXPANDED; FURTHER LIMITED FROM AUGUST 1 THROUGH NOVEMBER 30 TO HUMAN CONSUMPTION ONLY

DATE OF PRIORITY: DECEMBER 18, 1992

POINT OF DIVERSION LOCATION: SW 1/4 NE 1/4, SECTION 24, T40S, R13W, W.M.; 107 FEET NORTH AND 2060 FEET WEST FROM THE E 1/4 CORNER OF SECTION 24

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW 1/4 NE 1/4
SECTION 24
TOWNSHIP 40 SOUTH, RANGE 13 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or

measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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

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

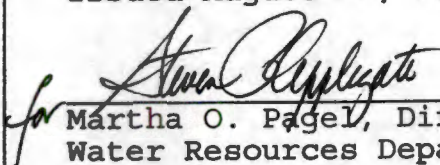
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued August 21, 1996

for 
Martha O. Pagel, Director
Water Resources Department

Final Site Report
under APP. 73081 Permit 52693

RECEIVED

SEP 12 2000

WATER RESOURCES DEPT.
SALEM, OREGON

Information and Place of Use: Jack B. Feeney
Jessie L. Feeney
00590 South Bank Rd.
Brookings, OR 97415

Type of Use: Domestic use expanded.

Place of Use: SW¼NE¼, Section 24, Township 40 South, Range 13 West,
Willamette Meridian, Tax Lot 400 on map 4013 24 AC.

Point of Diversion: SW¼NE¼, Section 24, Township 40 South, Range 13 West,
Willamette Meridian; 107' North and 2060' West of the
East ¼ Section 24.

Water Source: Unnamed stream tributary to Nell Creek tributary to Chetco River.

Rate and Duty: 0.01 CFS domestic use expanded and 0.005 for human
consumption.

Period of Allowed Use: December 1 through July 31 for domestic use expanded and
August 1 through November 30 for human consumption only.

Priority Date: December 18, 1992.

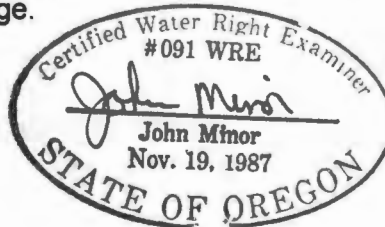
Diversion Works and Delivery System: At the point of diversion, a dug well 16' deep cased with 4'
diameter concrete rings. Water is pumped from the well with
a ¾ hp Fairbanks-Morse submersible pump to a 120 gal.
pressure tank. From this tank, water flows through 1¼" PVC
pipe to a 1200 gal. plastic semi-buried holding tank and into
an adjacent pumphouse where the water is treated for
acidity and pumped with a ½ hp Fairbanks-Moose pump into
a 60 gal. pressure tank. From this tank, the water flows
through 1¼" PVC pipe to point of use at residence.

Calculated System Capacity: Pump works at 50 psi $\frac{.75(6.61)}{16+100+(2.31)50} = .021 \text{ CFS}$

Permit Allowance = .015 CFS

Measured System Capacity: No measurements made.

Remarks: The final survey and inspection of the use was found to be
completed under the terms and conditions of Permit #52693
on August 16, 2000, and the facts contained in this report
and accompanying final proof map are correct to the best of
my knowledge.



John Minor
CWRE 91

We, Jack and Jessie Feeney, agree to the findings of the CWRE and do submit this site report and map as Claim of Beneficial Use of the water as provided under the terms and conditions of Permit #52693.

Jack B. Feeney 9-11-00
Jack B. Feeney Date

Jessie L. Feeney 9-11-00
Jessie L. Feeney Date

RECEIVED

NOV 24 1992

WATER RESOURCES DEPT.

SALEM, OREGON

PERMIT APPLICATION MAP
IN THE NAME OF JACK B. & JESSIE L. FEENEY
LOCATED IN THE SW 1/4 NE 1/4, SEC. 24, T.40S., R.13W., W.M.

Application No 73081
Permit No. 52693

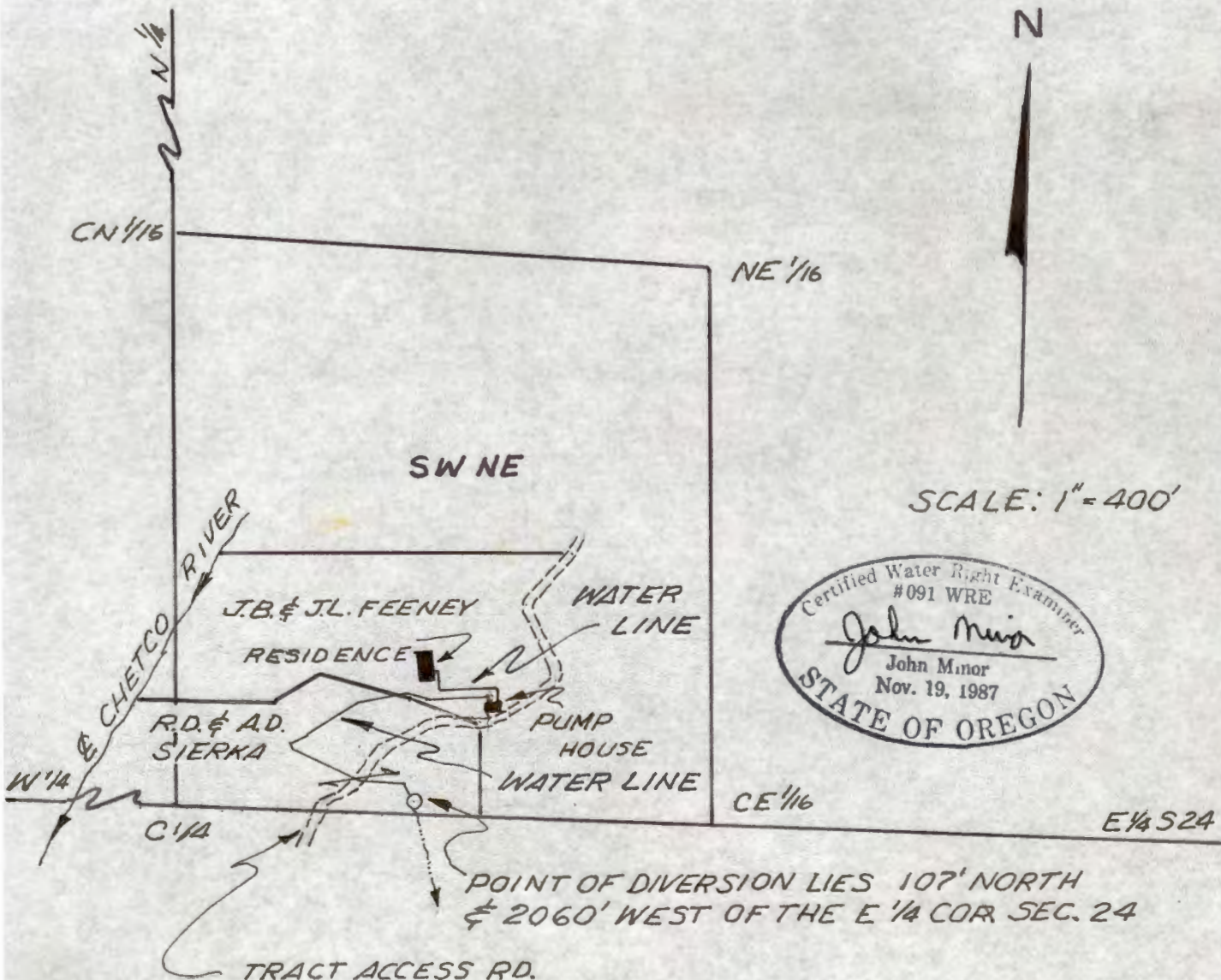
RECEIVED

DEC 18 1992

S/3

WATER RESOURCES DEPT.
SALEM, OREGON

THE PURPOSE OF THIS MAP IS TO SHOW THE
LOCATION OF THE WATER RIGHT, NOT PROPERTY
OWNERSHIP LINES. MAP DRAWN OCTOBER 31, 1992



Application S-73081

COPY CHECK-OFF SHEET FOR PROPOSED FINAL ORDERS

CC: FILE # S-73081

WATERMASTER # 19 - JOHN DROLET

REGIONAL MANAGER: AL COOK

ODF&W - Curry County:

CWRE (if agent):

DEQ

OTHER STATE AGENCY IF NECESSARY:

DIVISION 33 LIST: COLUMBIA RIVER INTERTRIBAL FISH COMMISSION; U.S. FISH & WILDLIFE;
(CHECK ONLY IF APPLICABLE) NORTHWEST POWER PLANNING COUNCIL & NATIONAL MARINE FISHERIES

POWER BUILDER UPDATER; FRONT COUNTER

OTHER ADDRESSES OF PEOPLE WHO PAID THE \$10 FEE:

PEOPLE WITH OBJECTIONS, COMMENTS OR REQUESTED COPY W/O \$10 (SEND THE \$10 LETTER):

Ann D. & R. Douglas Sierka waterwatch
PO Box 11612
Brookings, OR 97415

CASEWORKER : LJJ

FILE # 5-73081**FO CHECKLIST**REVIEW DATE: 8/14/96WEEK # 42**PFO TO FO CONVERSION**INITIALS: JTG

In preparing the FO, you should check the following:

1. Y / N Were comments or protests received in response to the PFO?
2. ✓ If #1 = "Y", from whom were the comments received and when?
3. ✓ Verify names and addresses on the PFO CC list. ALL commentors (regardless of comment date), affected landowners (were they notified?), and those who paid the \$10 fee should be listed.
4. ✓ Verify payment of recording fees (circle the appropriate option) 200
(1) Issue FO w/permit if fees are paid -- Prepare refund request for excess fees, including standing fees if no protest is filed and no modifications are being made to the PFO
(2) Issue FO w/o permit if fees are lacking 125
5. Y / N Is the file lacking a signed oath of accuracy for the application?
6. Y / N Has ODFW asked for self certification on screening condition?
7. Y / N Is water use prohibited for one or more months of the normal use period?
8. Y / N If #6 = "Y", is short season letter on file? Note: If short season letter is lacking prepare FO with Draft permit giving applicant 60 days to submit letter.
9. Y / N Is further processing possible? If not state reason: _____
10. _____ Notify applicant of additional information or fees required prior to permit issuance (SEND CERTIFIED LETTER & use standard wording from M:\T\FO\TOOLS if possible)
11. _____ Assign permit numbers to files with oath, fees, and no protests or other issues

DENIAL	FO w/o PERMIT	Route to: (circle one)	
LARRY	JERRY	<u>FO & PERMIT</u>	COMMENTS
		JEREMY	DOUG

Initials ymg

Modify FO as needed to:

12. ymg Respond to significant comments, issues, or disputes related to the proposed use of water (see notes, if any, listed above)
13. ✓ Include or exclude permit conditions and management codes
14. ✓ Correct PFO errors (such as POD or POU location (verify from map), Permit format)

Once FO document is completed:

15. ymg Save WordPerfect document in M:\T\FO\WEEK 48 & delete duplicates
16. ymg Print final draft of document and submit to team leader for review
17. Y / N Team leader review completed

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number S-73081

Proposed Final Order

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

Application History

On December 18, 1992, JACK B. JESSIE L. FEENEY submitted an application to the Department for the following water use permit:

- Amount of Water: 0.01 CUBIC FOOT PER SECOND (CFS)
- Use of Water: DOMESTIC USE EXPANDED FOR ONE FAMILY
- Source of Water: AN UNNAMED STREAM, A TRIBUTARY OF NELL CREEK
- Area of Proposed Use: Curry County within SWNE 1/4 1/4, SECTION 24, TOWNSHIP 40 SOUTH, RANGE 13 WEST, W.M.
- Water Delivery System: At the point of diversion a dug well, 16 feet deep, cased with 4-foot diameter concrete rings. Water is pumped from the well with a 3/4-horsepower Fairbanks-Morse submersible pump to a 120 gallon pressure regulated tank. From this tank, water flows through 1-1/4 inch PVC pipe to a 1200 gallon plastic semi-submerged holding tank on the owner's property and into an adjacent pumphouse where the water is treated for acidity. The water is then pumped with a 1/2-horsepower Fairbanks-Morse pump into a 60 gallon pressure tank. From here, the water flows through 1-1/4 inch PVC pipe to the point of use at the owner's residence.

The Department mailed the applicant notice of its Technical Review May 13, 1994, determining that 0.01 CFS FOR DOMESTIC USE EXPANDED may be allowed FROM DECEMBER 1 THROUGH JULY 31 AND 0.005 CFS FOR HUMAN CONSUMPTION may be allowed FROM AUGUST 1 THROUGH NOVEMBER 30. The 60-day objection period closed JULY 22, 1994.

Within the 60-day period, objections were received from WaterWatch.

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

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law

Findings of Fact

The South Coast Basin Program allows the following uses: DOMESTIC USE EXPANDED FOR ONE FAMILY AND HUMAN CONSUMPTION.

Senior water rights exist on AN UNNAMED STREAM, A TRIBUTARY OF NELL CREEK or on downstream waters.

AN UNNAMED STREAM, A TRIBUTARY OF NELL CREEK is not within or above a State Scenic Waterway.

Water is available for further appropriation (at an 80 percent exceedance probability) FOR DOMESTIC USE EXPANDED FROM DECEMBER 1 THROUGH JULY 31 AND FOR HUMAN CONSUMPTION FROM AUGUST 1 THROUGH NOVEMBER 30.

The Department finds that no more than 0.01 CFS would be necessary for DOMESTIC USE EXPANDED AND 0.005 CFS FOR HUMAN CONSUMPTION. The amount of water requested, 0.01 CUBIC FOOT PER SECOND, shall be restricted to 0.005 CFS FOR HUMAN CONSUMPTION FROM AUGUST 1 THROUGH NOVEMBER 30.

The Oregon Department of Fish and Wildlife has advised that the subject diversion has a low probability for negative impact to fish or other aquatic life in the source stream and in its downstream reaches.

An interagency team reviewed this proposed use for potential adverse impacts on declining fish populations. This team consisted of representatives from the Oregon Departments of Water Resources (WRD), Environmental Quality, Fish and Wildlife (DFW), and Agriculture. WRD and DFW representatives included both technical and field staff. The interagency team recommended that additional limitations or conditions of use be imposed on this application as follows:

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

Conclusions of Law

Under the provisions of ORS 537.153, the Department must presume that a proposed use will not impair or be detrimental to the public interest if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the South Coast Basin Plan.

No preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for Domestic Use Expanded from December 1 through July 31 and for Human Consumption from August 1 through November 31.

The proposed use will not injure other water rights.

The proposed use complies with rules of the Water Resources Commission.

The proposed use complies with the State Agency Agreement for land use.

For these reasons, the required presumption has been established.

Once the required presumption has been established, under the provisions of ORS 537.153(2) it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use will impair or be detrimental to the public interest as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected.

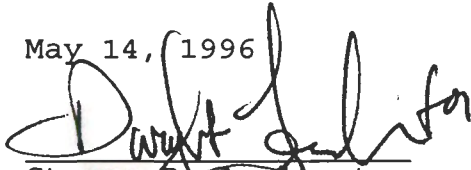
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use will impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use will not impair or be detrimental to the public interest as provided in ORS 537.170.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

May 14, 1996


Steven P. Applegate
Administrator
Water Rights Division

Protest Rights

Under the provisions of ORS 537.153(6) or 537.621(7), you have the right to submit a protest against this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050.
- If you are the applicant, a statement of whether or not you are requesting that a contested case hearing be held. If you do not request a hearing, the Department will presume that you do not wish for a hearing to be held.

Your protest must be received in the Water Resources Department no later than **JUNE 28, 1996**.

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

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

LJJ

DRAFT

This is not a permit!!!

DRAFT

STATE OF OREGON

COUNTY OF CURRY

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

JACK B FEENEY
JESSIE L FEENEY
590 S BANK CHETCO RIVER
BROOKINGS, OREGON 97415

(541)469-3075

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

APPLICATION FILE NUMBER: S-73081

SOURCE OF WATER: AN UNNAMED STREAM, A TRIBUTARY OF NELL CREEK

PURPOSE OR USE: DOMESTIC USE EXPANDED FOR ONE FAMILY AND HUMAN CONSUMPTION

MAXIMUM RATE/VOLUME ALLOWED: 0.01 CFS FOR DOMESTIC USE EXPANDED AND 0.005 CFS FOR HUMAN CONSUMPTION

PERIOD OF USE: DECEMBER 1 THROUGH JULY 31 FOR DOMESTIC USE EXPANDED AND AUGUST 1 THROUGH NOVEMBER 30 FOR HUMAN CONSUMPTION

DATE OF PRIORITY: DECEMBER 18, 1992

POINT OF DIVERSION LOCATION: SWNE, SECTION 24, T40S, R13W, W.M.; 107 FEET NORTH & 2060 FEET WEST FROM E1/4 CORNER, SECTION 24

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SWNE 1/4 1/4
SECTION 24
TOWNSHIP 40 SOUTH, RANGE 13 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening to prevent fish from entering the proposed diversion. The permittee shall also install a fishway at the obstruction that will provide adequate upstream and downstream passage for fish. The required screens and fishways are to be in place, functional, and approved by Oregon Department of Fish and Wildlife before diversion of any water.

STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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

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

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

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

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1998. Complete application of the water to the use shall be made on or before October 1, 1999.

Issued _____, 199_

DRAFT - THIS IS NOT A PERMIT

Water Resources Department
Director

Fish District: Lower Rogue/South Coast

WAB #

Application # 5-73081

Applicant Name J. Feeney

Date: March 26, 1996

AREA

☐ Source Watershed

☐ Senior instream water right application to junior out-of-stream application

☐ No water availability information

INFORMATION/CONDITIONS

1. Are there water quality concerns related to salmon/steelhead/trout? Y ☒ N

Should the application be denied? Y ☐ N

Should the application be restricted? Y ☐ N

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

2. Are there adequate flows to protect salmon/steelhead/trout? Y ☒ N

Should the application be denied? Y ☒ N

Should the application be restricted? Y ☒ N

☒ Based on water availability

Jan	Feb	Mar	Apr	May	Jun 1-15	June 16-30	Jul	Aug	Sep 1-15	Sep 16-30	Oct	Nov	Dec

3. Domestic

Should domestic use be conditioned to human consumption? Y ☐ N ☐ Based on water availability

4. Fish Screening and Passage

- ☒ A. Requires fish screening and passage, with ODFW certification (applications > 0.5 cfs).
☐ B. Requires fish screening and passage, without ODFW certification (applications < 0.5 cfs).
☐ C. No dam or obstruction without a fishway.

5. Miscellaneous

- ☐ A. Reservoir Filling _____
☐ B. Water Quality Permits _____
☐ C. Return Flow _____
☐ D. Time Limited Water Right _____
☐ E. Other _____

6. Measurement and Reporting

- ☐ A. Small diversions (<0.1 cfs or <9.2 ac/ft. may/may)
☐ B. Medium diversions (0.1 cfs or >9.2 and <1.5 cfs or <100 ac/ft. shall/may)
☐ C. Large diversions (1.5 cfs or >100 ac/ft. shall/shall)

FINDINGS

☐ Permit is proposed for denial prior to interagency team review for fishery concerns.

☐ Deny permit due to fishery concerns, except for

- ☐ A. Domestic (which may be limited to human consumption, see above)
☐ B. Livestock
☐ C. Unless water is from storage

☐ Do not condition further due to fishery concerns.

☒ Condition permit due to fishery concerns listed above.

Application No. 73081

State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Surface Water



Applicant(s) Jack B. & Jessie L. reenev
(Please print or type - use dark ink)

Mailing Address: 590 South bank Uhetco River
Brookings Oregon 97415 (503) 469-3075
City State Zip Daytime Phone No. *changed Not listed*

I (We) make application for a permit to appropriate the following described waters of the State of Oregon:

1. **SOURCE OF WATER** for the proposed use: Unnamed stream tributary to,
a tributary of Nell Creek
2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: .01 cubic feet per
second, OR _____ gallons per minute. If water is to be used from more than one source,
give the quantity of water from each: _____

3. **INTENDED USE(s) OF WATER:** Domestic use including lawn & garden

If for more than one use, give the quantity of water from each source for each use; _____

If for **DOMESTIC** use, state the number of households to be supplied; One

If for **MUNICIPAL OR QUASI-MUNICIPAL** use, state the present population to be served,
and an estimate of the future requirements; (List population projections, water needs, anticipated areas
to be provided water.) _____

If for **MINING** use, state the nature (gold, silver, etc.) of the mines to be served; _____

If for **IRRIGATION**, or other land area use, state the **TOTAL** number of acres to be developed
under each use;

Irrigation _____
Other (describe) _____



4. **DESCRIPTION OF WATER DELIVERY SYSTEM:** Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).

At the point of diversion a dug well 16 feet deep cased with 4 foot diameter concrete rings. Water is pumped from the well with a 3/4 HP Fairbanks-Morse submersible pump to a 120 gallon pressure regulated tank. From this tank water flows thru 1-1/4" PVC pipe to a 1200 gallon plastic semi-submerged holding tank on owners property and into an adjacent pumphouse where the water is treated for acidity and pumped with a 1/2 HP Fairbanks-morse pump into a 60 gallon pressure tank. From here the water flows thru 1-1/4" PVC pipe to the point of use at owners residence.

5. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin In use

Proposed date construction work will be completed Completed

Proposed date water use will be completed In use

NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

X Applicant CWRE Other (Identify in REMARKS section)

- b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

X Applicant CWRE Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? No. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

REMARKS: Ann D. & R. Douglas Sierka

P.O. Box 1612

Brookings, OR 97415

I/We certify that the information I have provided in this application is an accurate representation of the proposed water use and is true and correct to the best of my knowledge.

NOTE: The permit, when issued, is for the beneficial use of water without waste. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

Jack B. Sierka
Signature of Applicant

11-10-92
Date

Jessie L. Feeney
Signature of Co-Applicant, if any

11-10-92
Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

_____, 19____.

WITNESS my hand this _____ day of _____, 19____.

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 18th day of December, 1992, at 8:00 o'clock, A M.

APPLICATION NO: 73081

PERMIT NO: _____

May 13, 1994

JACK B. AND JESSIE L. FEENEY
590 SOUTH BANK CHETCO RIVER
BROOKINGS, OREGON 97415

Reference: File 73081

Hello:

This letter informs you of the current status of your application for a water use permit and accompanies the Satisfactory Report of Technical Review For Water Use Permit(s). We apologize for the delay in transmitting this information and Report to you and for any inconvenience the wait may have caused you.

The enclosed Report of Technical Review is the Department's summary of a specialized analysis of various legal and scientific aspects of your application and proposed water use. We are required by the state of Oregon's administrative rules (in OAR 690-11-160) to conduct this official technical review of each application submitted to the Oregon Water Resources Department for a water use permit. This process was designed to insure that your application receives a fair evaluation and to secure protection of existing water rights and of the public at large.

AS THE RESULT OF OUR TECHNICAL EVALUATION, WE HAVE DETERMINED THAT YOUR APPLICATION SATISFIES THE REQUIREMENTS OF THE TECHNICAL REVIEW.

The Department will now move your application to the next phase of processing. This phase includes a public interest review of your proposed water use. No final action may be taken on your application until the public interest review is completed.

You should also note that the Report of Technical Review describes conditions currently anticipated which may limit the water use proposed in your application.

If you wish to object to any of the analyses contained in the Report, you must submit your objection to the Department in writing within 60 days of the date of mailing of this Report or by the date specified below. Your objection must allege that the technical review is defective and you may also submit evidence which demonstrates that your proposed water use will not impair or be detrimental to the public interest.

Copies of the Report of Technical Review will be distributed to all persons who have filed comments or otherwise expressed an interest in the water use proposed in your application. Interested parties must also submit their objections within the prescribed objection period. Those objections must allege that the technical review is defective and/or that the proposed water use may impair or be detrimental to the public interest.



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

If an objection contains allegations that the technical review is defective, it must be accompanied by facts which support such allegations. If an objection contains allegations that the proposed water use may impair or be detrimental to the public interest, the objection must specify the particular public interest standards which apply as set out in Oregon Revised Statutes (ORS 537.170(5)) and Oregon Administrative Rules (OAR 690-11-195) and state facts showing how such standards would be violated.

All evidence and objections must be received by our Salem office **no later than 5:00 p.m. on or before July 22, 1994**, or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 158 12th Street Northeast, Salem, Oregon 97310.

If objections and evidence are submitted on or before the above time and date, the Director of the Water Resources Department will evaluate each issue raised in the objections and either accept or deny them. Objectors are encouraged to indicate whether they would be interested in resolving their concerns through alternative dispute resolution.

If any of the objections are denied, the objector will be allowed thirty days to submit a protest to the denial. The protest must meet the standards set forth in OAR 690-02-030 through 080.

If you have any questions, please feel free to telephone me or any of the Department's Water Rights Section staff. My telephone number is 378-3739, in Salem, or you may call toll free from within the state to 1-800-624-3199.

Sincerely,



MICHAEL J. MATTICK
Water Rights Specialist

MJM:

enclosure

cc: John Minor, CWRE

Report Date: May 13, 1994

OREGON WATER RESOURCES DEPARTMENT
SATISFACTORY REPORT OF TECHNICAL REVIEW
FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 158 12th ST N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE: July 22, 1994.

1. APPLICATION FILE NUMBER - 73081
2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

JACK B. AND JESSIE L. FEENEY

590 SOUTH BANK CHETCO RIVER

503-469-3075

BROOKINGS, OREGON 97415

Date application received for filing and/or tentative date of priority: December 18, 1992

SOURCE: Unnamed stream TRIBUTARY TO: Nell Creek

Purpose and/or use: Domestic use including lawn and garden

Flow: 0.01 cfs

Point of Diversion Location: SW 1/4 NE 1/4, SECTION 24, T 40 S, R 13 W, W.M.; 107 FEET NORTH AND 2060 FEET WEST FROM E 1/4 CORNER, SECTION 24.

Place of use:

SW 1/4 NE 1/4

SECTION 24

TOWNSHIP 40 SOUTH, RANGE 13 WEST, W.M.

SURFACE WATER AVAILABILITY

Water is likely available in excess of needs for all existing rights 80% of the time during each monthly period proposed by the technical review.

Water availability tables are available in the application file and may be reviewed in the office of the Water Resources Department in Salem.

CONFLICTS WITH OTHER WATER RIGHTS:

There are no existing rights from this point of diversion.

There are no existing water rights appurtenant to the lands described in the application.

REPORT CONCLUSIONS:

Based on the Department's review of water availability and Oregon Administrative Rules, water in the amount of 0.01 cfs is likely available 8 months for DOMESTIC USE EXPANDED AND 4 months FOR HUMAN CONSUMPTION ONLY.

Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: 73081

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: DECEMBER 1 THROUGH JULY 31 FOR DOMESTIC USE EXPANDED, AUGUST 1 THROUGH NOVEMBER 30 FOR HUMAN CONSUMPTION ONLY.
3. Rate of use: 0.01 FOR DOMESTIC USE EXPANDED; 0.005 FOR HUMAN CONSUMPTION.
4. Water use development requirements:
 - A. Begin construction by (one year from issuance of permit).
 - B. Complete construction by October 1, 1996.
 - C. Completely apply the water to beneficial use by October 1, 1997.
5. Measurement recording and reporting conditions:
 - A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
 - B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the

place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

6. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
7. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

PFO CHECKLIST

Application #: S-73081 Vol 7A Subbasin Chetco Riv & Misc.
 Basin: 17-South Coast WAB: 3103
 Township 40 South Range 13 West Section 24 1/4 1/4 SWNE

- ✓ 1. Completeness checklist verified? (Y) / N
- ✓ 2. Indicators that the process should not continue (ie - protest, items missing, letter to file indicating hold, other) Y / N
- N/A 3. Groundwater review A B C D
 - ✓ a. Is second groundwater review necessary? Y / N reason _____
 - ✓ b. Is the well located in a groundwater limited area? Y / N
- ✓ 4. SWW Y (N) Triage (Y) / N Conditions restrictions (Y) NB51 & B546
- ✓ 5. Basin Program limitations? Y (N) CAR 690-517-001(8)
- ✓ 6. Withdrawal? Y (N) season allowed _____ Nell Cr, trib to Chetco R.
- ✓ 7. Basin Maps have been checked. Y / N The River Mile is 8.0 of Chetco R.
- ✓ 8. Water Availability (50% < July 17, 1992 OR 80% [50% storage] > July 17, 1992) NA Domestic Ex: Dec. 1 - July 31
 - a. Notify Ken Stahr Y (N) (Q, Duty, or Season) & Human Consumption: August 1 - Nov. 30
- ✓ 9. Rate/Duty/Season 1/80 & 2 1/2 - Year Round
- ✓ 10. Use Domestic Expanded Period of Allowed Use DO EX - Dec. 1 - July 31 Hum. Consump - August 1 - Nov. 30
- ✓ 11. Priority Date(s) December 18, 1992 (TR) / IR mail date May 13, 1994
- N/A 12. B.O.R. project Y (N) contract # _____
- N/A 13. TMDL Basin? Y (N) (Tualatin, Yamhill, Pudding) Division 33 Y (N) (Abv Bonn > July 17, 92 //// Blw Bonn > April 18, 94 or June 3, 94)
- ✓ 14. Conflicts Y (N) No Conflict
- ✓ 15. Objections? Y (N) WW PFO different from IR/TR Y / N _____
- ✓ 16. Conditions (from IR/TR/ or Additional) (Y) - Triage Fish Screens - B546 & B51
- ✓ 17. Land use approval (OK'd) needs approval county notified NA
- ✓ 18. SIZE Small (<0.1cfs, <9.2AF) Medium (>0.1 or <1.5cfs, >9.2 or <100AF) Large (>1.5 cfs, >100 AF)?
- ✓ 19. Watermaster Dist: (1 2 16 18 - NWR) (3 4 5 - NCR) (6 8 9 10 - ER) (11 12 17 - SCR) (14 15 (19) - SWR)

Requested
0.01 cfs

Allowed
- 0.01 cfs - Dom Exp.
0.005 cfs - Human Consump.

Name: [Signature]

Date: 5-8-96

save to m:\t\pfo\done\week\app#.w51

✓NCR

TOWNSHIP <u>40S</u> RANGE <u>13W</u> W. M.																SECTION <u>24</u>		
NE				NW				SW				SE				APPLICATION NUMBER	PERMIT NUMBER	CERTIFICATE NUMBER
NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE			
																18038	13725	CANCELLED
																39396	29364	1
																39850	29605	CANCELLED
																40874	30426	CANCELLED
																45249	33281	36245
																71887		
																73081		

Ind. ✓
Done

Cancelled sp. or Rec. Vol. 15 P. 61

DM
18

Ind.
DM

0-8

15-2

DM

DM

DM

RECEIVED
JUN 16 1994
WATER RESOURCES DEPT.
SALEM, OREGON



14 June 1994

Water Rights Section
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

RE: Water Right Application #73081; Feeney, Nell Cr. (Chetco)

This diversion alone has a low probability for negative impact to fish or other aquatic life in the subject stream and in downstream reaches. However, the South Coast district is concerned about the cumulative impacts of continued water withdrawal out of the Chetco system on fish and aquatic life. To minimize impacts on aquatic resources I recommend that water to be used for lawn and garden come from water stored during December through April.

Presence of fish at the point of diversion is uncertain. Although ODFW will not require screening of the diversion at this time, we do wish to notify the applicant that we hold this option open for the future. Therefore, ODFW requests that WRD add the following as a condition to the proposed permit.

The permittee may be required in the future to install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion.

ODFW also requests the following condition relating to in-channel obstructions be included as a permit condition:

The permittee shall not construct, operate, or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

Sincerely,

A handwritten signature in dark ink, appearing to read "Doug Nemeth", written over a horizontal line.

Doug Nemeth
Assistant District Biologist
South Coast District

c: ODFW, Habitat Conservation Division



746 Airport Way
PO Box 642
Gold Beach, OR 97444
(503) 247-7605
FAX (503) 247-2321

TO: JAKE JEROME
FM: JPD/lt

Recommend this permit be granted for
human consumption only

RECEIVED

MAY 19 1994

WATER RESOURCES DEPT.
SALEM, OREGON

PROPOSED PERMIT CONDITIONS

Application: 73081

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: DECEMBER 1 THROUGH JULY 31 FOR DOMESTIC USE EXPANDED, AUGUST 1 THROUGH NOVEMBER 30 FOR HUMAN CONSUMPTION ONLY.
3. Rate of use: 0.01 FOR DOMESTIC USE EXPANDED; 0.005 FOR HUMAN CONSUMPTION.
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 - A. Begin construction by (one year from issuance of permit).
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 - C. Completely apply the water to beneficial use by October 1, 1997.
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place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

6. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
7. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
8. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

This was found in
73080 5/3/96 nm

WaterWatch

73081
RECEIVED

JUL 26 1994

WATER RESOURCES DEPT.
SALEM, OREGON

By FAX and Regular Mail

July 18, 1994

Oregon Water Resources Department
Water Rights Section
3850 Portland Road NE
Salem, Oregon 97310

Re: Objection to Technical Report for:
73081, Feeney, Domestic and Garden, Nell Creek/Chetco
Coos Co., South Coast

WaterWatch submits the following objections pursuant to OAR 690-11-170:

◆ **The Technical Report is Defective**

The technical report fails to contain many of the elements and evaluations required in OAR 690-11-160(1). The areas of deficiency are the same as those identified in WaterWatch's April 5 objection to application #69165 which we hereby incorporate into this objection.

◆ **The Water Availability Analysis in the Technical Report is Defective**

The analysis is defective for the following reasons:

- The technical report fails to contain any analysis of water availability, contrary to OAR 690-11.
- The analysis fails to take into account existing water rights of record. It is unclear from the technical report to what extent the water availability analysis takes into account upstream water rights. As we understand it, water rights are taken into account either by assuming the streamflow data reflects the amount of use or by using estimates of consumptive use. Both methods fail to give adequate consideration to rights-of-record. Failure to account for future increases in water use pursuant to rights of record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.
- The analysis for the proposed new use of the Chetco River fail to take into account the requested flows in the senior pending instream water right applications for the Chetco system. If the analysis had taken into account the instream water right request it would have determined that water was not

available for use during the months of May, June and July as well as August through November.¹

- The technical report allows use during months when the water availability analysis in the file shows that water is not available. This is contrary to the allocation policy which prohibits further overallocation.

◆ **The Use As Proposed is Not in the Public Interest**

The proposed use fails to pass the public interest considerations in ORS 537.170 and are contrary to the South Coast basin program. *See also*, OAR 690-11-195(3)(d), (4)(a), (4)(c)(A), (4)(d)(A), (4)(f).

1. **The proposed use is not in the public interest because it will interfere with flows needed to support public instream uses of water.**

The proposed use of water for the Chetco River will deplete flows needed for numerous public instream uses of the river systems. The system supports a variety of fish life including cutthroat trout, winter steelhead fall chinook, and coho salmon. Petitions have been filed requesting listing of coastal coho and steelhead under the Federal Endangered Species Act. Low flows during summer months impair fish survival by among other things raising water temperatures and decreasing aquatic habitat and fish rearing areas. Low flows in the winter adversely affect fish habitat by among other things exposing spawning gravel and reducing feeding and rearing areas in these rivers. In addition, water diversions create problems for fish passage and survival in these basins.

Currently there are pending instream water right applications for the Chetco system which request flows needed for fish life. The public uses reflected in the instream water right applications (protection and conservation of fish life) have a "reasonable expectation of being developed" as evidenced by the pending instream water right applications. These instream uses provides greater benefit to the public at large than the proposed use. These fish populations have statewide and even national significance and streamflows are essential

¹ In addition, the instream flows currently proposed for issuance by the Water Resources Department are lower than those requested by ODFW and contain blanket exception for human consumption and livestock use. The exact flows and what, if any exceptions will be adopted will not and cannot be determined until the instream certificates are issued. To base water availability analysis on the Department's lower flows and assumptions of exceptions is bad policy and will result in an overestimation of water availability.

for maintenance of these fish. The proposed use would divert water needed to meet instream flow needs and should be denied.

2. Measurement and reporting.

These conditions should allow the Director to require measurement and reporting of both **rate and duty** of water stored and used. The proposed permit conditions restrict use based upon a specific rate. Measurement and reporting of water use is to be a useful informational and regulatory tool for the Department, it should provide the information needed to ensure that water use is within the terms of the permit.

The surface waters of the Chetco River system are overallocated during the summer months. The information generated by these proposed conditions are essential to the management and control of the water resource. **If** this use were to be permitted, water use measurement and reporting should be a mandatory condition of use. This information is essential for protection of the public interest in the resource. However, we question the Department's ability to control this use, **even** with these requirements.

The technical report proposes to limit the type of use allowed during certain months of the year. The Department's enforcement staff is already incapable of control existing rights to use water in the south coast basin. This and other proposed uses add yet another enforcement responsibility on top of an already unmanageable load. Under these circumstances, it is difficult if not impossible for the state to ensure that these applicants will, **at all times**, use water in compliance with the permit conditions. Given the critical state of the water resource in the basin and the Department's inability to control this use, even with measurement and reporting, this use is not in the public interest and should be denied.

3. Screening and passage.

Given the critical status of fish populations and the adverse effects diversions have on fish habitat, adequate screening a passage conditions should be included in any permit issued. ODFW, in a June 14, 1994 letter to the Department requested conditions relating to screening and passage and in-channel obstructions. These conditions should be added to the proposed permit.

4. The proposed use is contrary to Oregon policy.

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed

and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a).

If hypothetically, this proposed use was allowed it will be junior to the existing instream water right applications and should be conditioned to protect the senior instream flows. Critical to the protection of instream flows is knowing and controlling water use in the basin. These and other potential water users in the basin should be required to contribute to activities that enable the state to better manage and control the resource - such as measuring and reporting streamflows or contributing funds for installation and maintenance of gauging stations in key locations.

The recent petition for listing of coho and steelhead populations coast wide makes the protection of instream flows even more important for achieving a balance in this basin. The establishment and protection of instream water rights will help to achieve a balanced allocation of water between public instream and other uses in Basin and throughout the state.

Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Providing streamflow protection for fish is also necessary in order to carry out the state policy of restoring native fish stocks. ORS 496.435. Thus, protection of the public interest requires denial of this application.

Domestic Use

Allowing the proposed domestic and human consumption uses is contrary to the Commission's Water Allocation Policy. The policy allows additional uses on overappropriated streams **only** "where public interest in those uses is high **and** uses are conditioned to protect instream values." OAR 690-410-070(1)(a) (emphasis added). While the exceptions contained in the existing instream water rights in the South Coast basin seem to indicate high public interest in the proposed uses of human consumption, livestock and irrigation of non-commercial gardens, they are not included in the pending senior instream water right applications.²

In addition, the mere fact that the proposed use of human consumption seem to fall within the exception in the existing instream water rights does not relieve the Department from its duty to consider and protect the public interest, including the public value of

² An exception for human consumption has been proposed in the technical reports for the instream water right applications - however, this does not necessarily mean that the instream water right when issued will include this unlimited exception.

instream flows and the needs of anadromous fish. Furthermore, the proposed use fails to fit within the exception because it is impossible to condition these uses in a way that will protect instream values. *See above.*

The exceptions in the instream water right certificates are narrowly worded and should not be applied unless there is absolutely no other alternative sources of water. It is bad public policy to automatically apply this exemption without looking for other possible sources that can accommodate this water use. Human beings can go elsewhere for water, fish can not.

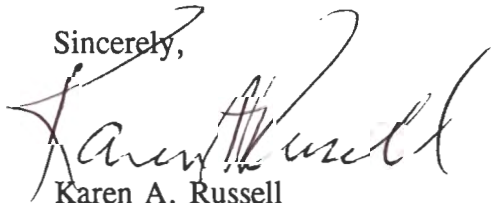
Failure of the State to look for or provide other sources of water, in the face of potential listing of the coastal coho creates expectations for water that may not be fulfilled if/when the species are listed. Instream flows in the system provide critical habitat for fish - without water instream there is no habitat. ODFW has expressed concerns about the cumulative impacts of continued water withdrawals out of the Chetco system. See ODFW letter to Water Resources Department, June 14, 1994. Continuing to issue water rights on a river with a possibility of a listed species, as well as existing water availability and water quality problems makes little sense.

There are many small domestic uses in the basin consuming both ground and surface waters, all vital sources for instream flow. Individually, the quantity of water consumed may not be large, but cumulatively these uses adversely effect instream flows and water quality. Ignoring this problem is bad public policy. The state should be looking for alternate sources for these uses and ways to provide regional water supplies for these uses in a way that will result in the least amount of impact for the resource.

Conservation

Oregon statutes and rules also call 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) and OAR 690-410-060(1). The proposed conditions do little to further these policies. Given the presence of potentially listed species, the water quality problems and the fact water diversions are one of the causes of anadromous fish declines it is imperative that the water use be as efficient as possible. The proposed use should be held to a high efficiency standard **prior to** any permit issuance.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Karen A. Russell', is written over the typed name.

Karen A. Russell
Assistant Director

COMPLETED

COMPLETENESS DETERMINATION CHECKLIST

Application #	Review Date	Reviewer
S-73081	10/12/95	GERRY

200 Exam
125 Dom/Ex

325 Total
325 Received

& Fees OK

A checkmark (✓) indicates that the item is incomplete or defective.

- _____ 1. Examination fees (and recording fees, if for PFO/FO).
- _____ 2. Name and address of the applicant, and title if applicable.
- _____ 3. Source of water.
- _____ 4. Use of water.
- _____ 5. Amount of water.
- _____ 6. Description of delivery system.
- _____ 7. A statement of whether the applicant has written authorization or easements permitting access to lands owned by others.
- _____ 8. Name(s) and address(es) of the owners of any lands involved, but not owned by the applicant.
- _____ 9. Proposed dates of beginning and completion of construction, and complete application of water.
- _____ 10. If for **municipal use**, the present population to be served and expected future water requirements.
- _____ 11. If for **mining use**, the type of mines and methods of supplying & utilizing the water.
- _____ 12. If for a **reservoir**:
 - _____ a. The height of the dam.
 - _____ b. The storage capacity.
 - _____ c. The area submerged.
 - _____ d. The maximum depth.
 - _____ e. The construction method (earthfill, concrete, flashboard, etc.).
 - _____ f. A description of the outlet conduit.
 - _____ g. A description of the spillway.
- _____ 13. If for **groundwater**, the horizontal distance from the well to the nearest surface water source (if within one mile), and the difference in land surface elevation between them.
- _____ 14. If the application was made under **HB 2107**:
 - _____ a. Name and address of each adjacent property owner and verification that each owner has been mailed a copy of the completed notice.
 - _____ b. A description of the proposed water used and related project, the condition it will address, and the benefits that are expected to result from the project.
 - _____ c. The number of reservoirs per application is appropriate as per OAR 690-11-049 (3)(b)
- _____ 15. An oath that the application information is true and correct.
- _____ 16. The signature of the applicant(s).
- _____ 17. A satisfactory map of the proposed POD & POU.
- _____ 18. A Land Use Information Form or receipt.
- _____ 19. A legal description of the property where water will be used.

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This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: _____

Address: _____

City: _____ State: _____ Zip: _____ Day Phone: _____

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
401324AC	FORESTRY GRAZING			
T.L. 400	(FG)			X
500		X	X	

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used.

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

For Local Government Use Only

Local planning officials are to complete the remainder of this form. If it cannot be completed while the applicant waits, sign and detach the receipt as instructed below. You will receive notice when the applicant's water right request is filed with the Water Resources Department (WRD). You will have 30 days from the notice date to return this completed land use form to WRD. If no land use information is received from you within that period, WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan.

a) Check the appropriate box below and provide requested information.

☐ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____. Go to section b) on reverse side.

☒ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note:** Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily
CONDITIONAL USE	SEC. 3.055	✓		

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government cannot provide the above requested land use information while the applicant waits.

City or County: _____

Staff Contact: _____ Phone: _____

Signature: _____ Date of Information Request: _____

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: DIANNE L. SNOW

Title: PLANNER

Signature: Dianna L. Siver

Date: 12/15/92
Phone: 247-7011

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

Additional Comments:

This image shows a single sheet of white paper with horizontal ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

Description of Water Use

RECEIVED

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

DEC 18 1992

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

WATER RESOURCES DEPT.
SALEM, OREGON

Applicant Name: _____
Address: _____

Phone: _____

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☒ Residential (# units, single or multi-family, # lots if partition or subdivision): SINGLE FAMILY DWELLING
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.): _____
- ☐ Fish and Wildlife (pond, hatchery, etc.): _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☐ Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
☐ Reservoir or pond	
☐ Ground Water	

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That Robert C. Drake

hereinafter called the grantor, for the consideration hereinafter stated, to grantor paid by Jack B. Feeney and Jessie L. Feeney, husband and wife, hereinafter called the grantee, does hereby grant, bargain, sell and convey unto the said grantee and grantee's heirs, successors and assigns, that certain real property, with the tenements, hereditaments and appurtenances thereunto belonging or appertaining, situated in the County of Curry and State of Oregon, described as follows, to-wit:

See Attached Exhibit "A"

Application No. 73081
Permit No.

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DEC 18 1992

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NOV 24 1992

WATER RESOURCES DEPT.
SALEM, OREGONWATER RESOURCES DEPT.
SALEM, OREGON

(IF SPACE INSUFFICIENT, CONTINUE DESCRIPTION ON REVERSE SIDE)

To Have and to Hold the same unto the said grantee and grantee's heirs, successors and assigns forever.

And said grantor hereby covenants to and with said grantee and grantee's heirs, successors and assigns, that grantor is lawfully seized in fee simple of the above granted premises, free from all encumbrances Except Items 3, 4 and 5 in Gold Coast Title Report #51716

and that grantor will warrant and forever defend the said premises and every part and parcel thereof against the lawful claims and demands of all persons whomsoever, except those claiming under the above described encumbrances.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$ 21,000.00.

~~However, the actual consideration consists of or includes other property or value given or promised which is the whole part of the consideration (indicate which).~~ (The sentence between the symbols ①, if not applicable, should be deleted. See ORS 93.030.)

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the grantor has executed this instrument this 23rd day of DECEMBER, 1977; if a corporate grantor, it has caused its name to be signed and seal affixed by its officers, duly authorized thereto by order of its board of directors.

(If executed by a corporation,
affix corporate seal)

Robert C. Drake

STATE OF OREGON,

County of Coos

ss.

12-23, 1977

Personally appeared the above named Robert C. Drake

and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me:

Notary Public for Oregon

My commission expires: 2/3/79

STATE OF OREGON, County of) ss.

19

Personally appeared and

who, being duly sworn, each for himself and not one for the other, did say that the former is the president and that the latter is the secretary of

a corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors; and each of them acknowledged said instrument to be its voluntary act and deed.

Before me:

(OFFICIAL
SEAL)

Notary Public for Oregon

My commission expires:

Robert C. Drake
1100 E. 15th St.
Coquille, OR 97423

STATE OF OREGON,

ss.

Jack B. and Jessie L. Feeney
1020 Glenn St.
Crescent City, CA 95531

GRANTEE'S NAME AND ADDRESS

After recording return to:

Jack B. and Jessie L. Feeney
1020 Glenn St.
Crescent City, CA 95531

NAME, ADDRESS, ZIP

Until a change is requested all tax statements shall be sent to the following address.

Jack B. and Jessie L. Feeney
1020 Glenn St.
Crescent City, CA 95531

NAME, ADDRESS, ZIP

SPACE RESERVED
FOR
RECORDER'S USE

ment was received for record on the
day of _____, 19____,
at _____ o'clock _____ M., and recorded
in book _____ on page _____ or as
file/reel number _____,
Record of Deeds of said county.

Witness my hand and seal of
County affixed.

Recording Officer

By _____ Deputy

EXHIBIT "A"

That certain tract of land lying in the Northeast quarter of Section 24, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon, described as follows:

Beginning at Point "14A", said point being 663.3 feet North and 382.4 feet West of the Southeast corner of the Southwest quarter of the Northeast quarter of said Section 24;

Thence S38°21'W 155.00 feet;
 Thence S31°22'E 114.76 feet;
 Thence S 4°53'E 83.54 feet;
 Thence S55°00'W 132.00 feet;
 Thence S75°11'W 72.02 feet;
 Thence N68°44'W 182.25 feet;
 Thence N72°29'W 208.51 feet;
 Thence S57°09'W 117.74 feet;
 Thence West 340.00 feet, more or less, to the centerline of the Chetco River;
 Thence Northeasterly following the centerline of said channel to a point that bears WEST from the point of beginning;
 Thence EAST 815 feet, more or less, to the point of beginning.

An easement for right-of-way purposes over a strip of land 50 feet in width, 25 feet on either side of the following described centerline in the Southwest quarter of the Northeast quarter of Section 24, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon:

Beginning at a point on the South boundary of the Northeast quarter of said Section 24, N86°07'W, 955.8 feet from the Southeast corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of said Section 24:

*Begin new
easement*
 Thence N24°02'E, 10.30 feet;
 Thence N55°31'E, 113.30 feet;
 Thence N33°55'E, 88.18 feet;
 Thence N61°00'E, 126.44 feet;
 Thence S89°25'E, 108.32 feet;
 Thence N75°40'E, 63.60 feet;
 Thence N57°28'E, 135.88 feet;
 Thence N 4°53'W, 83.54 feet;
 Thence N31°22'W, 114.76 feet;
 Thence N38°21'E, 155.00 feet to point 14A which is the Northeast Corner of Tract "C" of the Drake property. This point falls on the Centerline of an existing road.

GCT 51716

continued-----

EXHIBIT "A" continued

An easement of adequate width to install and maintain a water system and a water line for the purpose of transporting water from said spring to Tract "C" of Drake property:

Beginning at a point within a partially developed spring in Tract "A", said point being 63.5 feet North and 750.8 feet West of the Southeast corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 24, Township 40 South, Range 13 West, Willamette Meridian, Curry County, Oregon:

Thence N18°41'W., 60.39 feet;
Thence N78°26'W., 87.63 feet more or less to a point within a certain right-of-way easement for roadway purposes across Tract "A" of Drake property;
Thence in a Northeasterly direction and within the confines of said right-of-way easement to a point where said roadway easement intersects the boundary line of Tract "C" as revised as shown by a survey recorded December, 1977 in Records of Curry County.

GCT 51716

Indexed in Deeds

State of Oregon }
County of Curry } ss.

I hereby certify that the within instrument was
filed for record *January 17, 1978*

at *2:25* o'clock *P.* M. and recorded

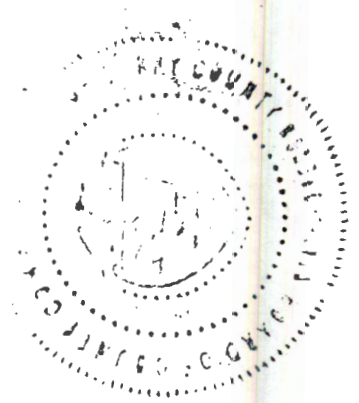
in Book of Records Vol. *57* Page *5182-184*

BERNARD I. MATHER, County Clerk

Diana L. Rowe

Deputy

Fee Rec'd. *900*



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NOV 24 1992

WATER RESOURCES DEPT.
SALEM, OREGON

AGREEMENT FOR EASEMENT

INDEX

OR 100 PAGE 998

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DEC 18 1992

WATER RESOURCES DEPT.
SALEM, OREGON

THIS AGREEMENT, Made and entered into this 18th day of August, 1983 by and between R. Douglas and Ann D. Sierka, husband and wife, first parties, and Jack B. and Jessie L. Feeney, second parties,

Application No 73081
Permit No.

WITNESSETH, That for mutual considerations first parties do hereby give and grant unto second parties a permanent non-exclusive easement described as follows, to-wit:

A permanent easement of adequate width to install, maintain and operate electrical, water, telephone and cable utility lines over and across a parcel of land described as Tax Lot 40 13 24AC 500 located within the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 24, T.40S., R.13W., W.M., Curry County, Oregon. Said easement shall follow along the edge of the main access road and thence along the edge of an existing private driveway across the above described parcel. The centerline of such roads described as follows:

Beginning at a point on the South boundary of the NE $\frac{1}{4}$ of said Section 24, N86° 07'W, 955.8 feet from the Southeast corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 24:

Thence N24° 02'E, 10.3 feet
Thence N55° 31'E, 113.3 feet to a point at the intersection with a private driveway.
Thence N65° 25'W, 128.1 feet following said private driveway
Thence N68° 00'W, 87.0 feet
Thence N37° 30'W, 15.0 feet
Thence N82° 30'E, 76.0 feet
Thence N59° 30'E, 157.0 feet
Thence N46° 45'E, 39.2 feet more or less to a point on the North property boundary of said Tax Lot 40 13 24AC 500

If the utility lines are located substantially as described herein, the centerline of the utility trench as constructed is hereby deemed accepted by the Grantor as the true centerline of the easement granted.

IN WITNESS WHEREOF, the undersigned have set their hands and seal this 18th day of August, 1983.

R. Douglas Sierka
R. DOUGLAS SIERKA

Ann D. Sierka
ANN D. SIERKA
FIRST PARTIES

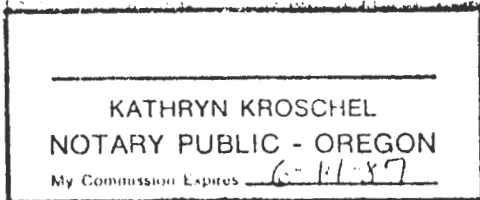
Jack B. Feeney
JACK B. FEENEY

Jessie L. Feeney
JESSIE L. FEENEY
SECOND PARTIES

STATE OF OREGON)
COUNTY OF CURRY)

BE IT REMEMBERED, that on this 15th day of August, 1983, before me, the undersigned, a Notary Public in and for said County and State; personally appeared the within named R. Douglas Sierka and Ann D. Sierka, who are known to me to be the identical persons, described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Stamp, this day and year last above written.

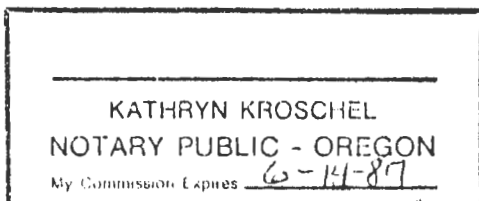


Kathryn Kroschel
Notary Public for Oregon
My Commission Expires:
6-14-87

STATE OF OREGON)
COUNTY OF CURRY)

BE IT REMEMBERED, that on this 26th day of August, 1983, before me, the undersigned, a Notary Public in and for said County and State; personally appeared the within named Jack B. Feeney and Jessie L. Feeney, who are known to me to be the identical persons, described in and who executed the within instrument and acknowledged to me that they executed the same freely and voluntarily.

IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial Stamp, this day and year last above written.

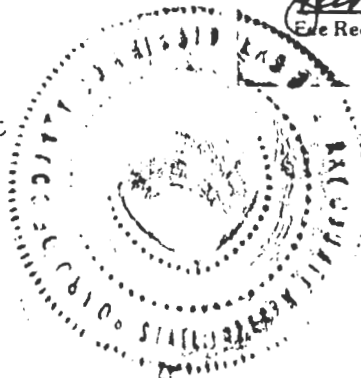


Kathryn Kroschel
Notary Public for Oregon
My Commission Expires:
6-14-87

Indexed In Deeds
State of Oregon } ss.
County of Curry }
I hereby certify that the within instrument was
filed for record Nov. 14, 1983
at 11:30 o'clock A M. and recorded
in Book of Records Vol. 100 Page 998-99
EUGENE P. BAUMANN, County Clerk
Eugene P. Baumann Deputy
File Rec'd. 8800

Page 2-Agreement for Easement

Return to:
Jack B. Feeney
1020 Blenheim St
Brescent City, Ca. 95531



WaterWatch

By FAX and Regular Mail

July 18, 1994

Oregon Water Resources Department
Water Rights Section
3850 Portland Road NE
Salem, Oregon 97310

Re: Objection to Technical Report for:
73081, Feeney, Domestic and Garden, Nell Creek/Chetco
Coos Co., South Coast

WaterWatch submits the following objections pursuant to OAR 690-11-170:

◆ **The Technical Report is Defective**

The technical report fails to contain many of the elements and evaluations required in OAR 690-11-160(1). The areas of deficiency are the same as those identified in WaterWatch's April 5 objection to application #69165 which we hereby incorporate into this objection.

◆ **The Water Availability Analysis in the Technical Report is Defective**

The analysis is defective for the following reasons:

- The technical report fails to contain any analysis of water availability, contrary to OAR 690-11.
- The analysis fails to take into account existing water rights of record. It is unclear from the technical report to what extent the water availability analysis takes into account upstream water rights. As we understand it, water rights are taken into account either by assuming the streamflow data reflects the amount of use or by using estimates of consumptive use. Both methods fail to give adequate consideration to rights-of-record. Failure to account for future increases in water use pursuant to rights of record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.
- The analysis for the proposed new use of the Chetco River fail to take into account the requested flows in the senior pending instream water right applications for the Chetco system. If the analysis had taken into account the instream water right request it would have determined that water was not

Water Resources Department
73081
Page 2

available for use during the months of May, June and July as well as August through November.¹

- The technical report allows use during months when the water availability analysis in the file shows that water is not available. This is contrary to the allocation policy which prohibits further overallocation.

♦ **The Use As Proposed is Not in the Public Interest**

The proposed use fails to pass the public interest considerations in ORS 537.170 and are contrary to the South Coast basin program. *See also*, OAR 690-11-195(3)(d), (4)(a), (4)(c)(A), (4)(d)(A), (4)(f).

1. **The proposed use is not in the public interest because it will interfere with flows needed to support public instream uses of water.**

The proposed use of water for the Chetco River will deplete flows needed for numerous public instream uses of the river systems. The system supports a variety of fish life including cutthroat trout, winter steelhead fall chinook, and coho salmon. Petitions have been filed requesting listing of coastal coho and steelhead under the Federal Endangered Species Act. Low flows during summer months impair fish survival by among other things raising water temperatures and decreasing aquatic habitat and fish rearing areas. Low flows in the winter adversely affect fish habitat by among other things exposing spawning gravel and reducing feeding and rearing areas in these rivers. In addition, water diversions create problems for fish passage and survival in these basins.

Currently there are pending instream water right applications for the Chetco system which request flows needed for fish life. The public uses reflected in the instream water right applications (protection and conservation of fish life) have a "reasonable expectation of being developed" as evidenced by the pending instream water right applications. These instream uses provides greater benefit to the public at large than the proposed use. These fish populations have statewide and even national significance and streamflows are essential

¹ In addition, the instream flows currently proposed for issuance by the Water Resources Department are lower than those requested by ODFW and contain blanket exception for human consumption and livestock use. The exact flows and what, if any exceptions will be adopted will not and cannot be determined until the instream certificates are issued. To base water availability analysis on the Department's lower flows and assumptions of exceptions is bad policy and will result in an overestimation of water availability.

Water Resources Department
73081
Page 3

for maintenance of these fish. The proposed use would divert water needed to meet instream flow needs and should be denied.

2. Measurement and reporting.

These conditions should allow the Director to require measurement and reporting of both rate and duty of water stored and used. The proposed permit conditions restrict use based upon a specific rate. Measurement and reporting of water use is to be a useful informational and regulatory tool for the Department, it should provide the information needed to ensure that water use is within the terms of the permit.

The surface waters of the Chetco River system are overallocated during the summer months. The information generated by these proposed conditions are essential to the management and control of the water resource. If this use were to be permitted, water use measurement and reporting should be a mandatory condition of use. This information is essential for protection of the public interest in the resource. However, we question the Department's ability to control this use, even with these requirements.

The technical report proposes to limit the type of use allowed during certain months of the year. The Department's enforcement staff is already incapable of control existing rights to use water in the south coast basin. This and other proposed uses add yet another enforcement responsibility on top of an already unmanageable load. Under these circumstances, it is difficult if not impossible for the state to ensure that these applicants will, at all times, use water in compliance with the permit conditions. Given the critical state of the water resource in the basin and the Department's inability to control this use, even with measurement and reporting, this use is not in the public interest and should be denied.

3. Screening and passage.

Given the critical status of fish populations and the adverse effects diversions have on fish habitat, adequate screening a passage conditions should be included in any permit issued. ODFW, in a June 14, 1994 letter to the Department requested conditions relating to screening and passage and in-channel obstructions. These conditions should be added to the proposed permit.

4. The proposed use is contrary to Oregon policy.

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed

Water Resources Department
73081
Page 4

and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a).

If hypothetically, this proposed use was allowed it will be junior to the existing instream water right applications and should be conditioned to protect the senior instream flows. Critical to the protection of instream flows is knowing and controlling water use in the basin. These and other potential water users in the basin should be required to contribute to activities that enable the state to better manage and control the resource - such as measuring and reporting streamflows or contributing funds for installation and maintenance of gauging stations in key locations.

The recent petition for listing of coho and steelhead populations coast wide makes the protection of instream flows even more important for achieving a balance in this basin. The establishment and protection of instream water rights will help to achieve a balanced allocation of water between public instream and other uses in Basin and throughout the state.

Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Providing streamflow protection for fish is also necessary in order to carry out the state policy of restoring native fish stocks. ORS 496.435. Thus, protection of the public interest requires denial of this application.

Domestic Use

Allowing the proposed domestic and human consumption uses is contrary to the Commission's Water Allocation Policy. The policy allows additional uses on overappropriated streams only "where public interest in those uses is high **and** uses are conditioned to protect instream values." OAR 690-410-070(1)(a) (emphasis added). While the exceptions contained in the existing instream water rights in the South Coast basin seem to indicate high public interest in the proposed uses of human consumption, livestock and irrigation of non-commercial gardens, they are not included in the pending senior instream water right applications.²

In addition, the mere fact that the proposed use of human consumption seem to fall within the exception in the existing instream water rights does not relieve the Department from its duty to consider and protect the public interest, including the public value of

² An exception for human consumption has been proposed in the technical reports for the instream water right applications - however, this does not necessarily mean that the instream water right when issued will include this unlimited exception.

Water Resources Department
73081
Page 5

instream flows and the needs of anadromous fish. Furthermore, the proposed use fails to fit within the exception because it is impossible to condition these uses in a way that will protect instream values. *See above.*

The exceptions in the instream water right certificates are narrowly worded and should not be applied unless there is absolutely no other alternative sources of water. It is bad public policy to automatically apply this exemption without looking for other possible sources that can accommodate this water use. Human beings can go elsewhere for water, fish can not.

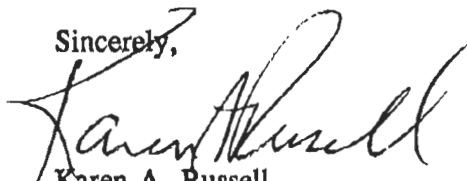
Failure of the State to look for or provide other sources of water, in the face of potential listing of the coastal coho creates expectations for water that may not be fulfilled if/when the species are listed. Instream flows in the system provide critical habitat for fish - without water instream there is no habitat. ODFW has expressed concerns about the cumulative impacts of continued water withdrawals out of the Chetco system. See ODFW letter to Water Resources Department, June 14, 1994. Continuing to issue water rights on a river with a possibility of a listed species, as well as existing water availability and water quality problems makes little sense.

There are many small domestic uses in the basin consuming both ground and surface waters, all vital sources for instream flow. Individually, the quantity of water consumed may not be large, but cumulatively these uses adversely effect instream flows and water quality. Ignoring this problem is bad public policy. The state should be looking for alternate sources for these uses and ways to provide regional water supplies for these uses in a way that will result in the least amount of impact for the resource.

Conservation

Oregon statutes and rules also call 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) and OAR 690-410-060(1). The proposed conditions do little to further these policies. Given the presence of potentially listed species, the water quality problems and the fact water diversions are one of the causes of anadromous fish declines it is imperative that the water use be as efficient as possible. The proposed use should be held to a high efficiency standard prior to any permit issuance.

Sincerely,



Karen A. Russell
Assistant Director

COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

CC: FILE # 73081

WATERWATCH

ODF&W

WATERMASTER # 19

REGIONAL MANAGER - SW

CWRE - John Miron

DEO

OREGON ASSOCIATION OF NURSERYMEN INC.

KEN STAHR

OTHER ADDRESSES: Ann D. & K. Douglas Sirkka

PO Box 1612

Brookings OR 97415

CASEWORKER *mm*

ORIGINAL TO APPLICANT 2/03/94

WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

May 5, 1994

To: FILE 73081

From: MICHAEL MATTICK



Subject: Mr. Feeney's response to my April 28 letter

Jack Feeney called me this morning to talk about the "well".

It is actually a spring development. The "well" was dug where the spring flows into Nell Creek.

April 28, 1994

Jack B. and Jessie L. Feeney
590 South Bank Chetco River
Brookings, Oregon 97415

REFERENCE: file 73081

Dear Mr. and Ms. Feeney,

I am reviewing your water use application. The form used is for a surface water permit identifying the source as an unnamed stream tributary to Nell Creek. However, the description of the water delivery system describes a dug well 16 feet deep.

I need to know if the source is really a surface water source, for example, is the "well" in the stream bed to intercept surface flow, or a developed spring which used to flow above the ground? Or, is it really a well which was dug down deep enough to intercept the water table.

This is a significant question. If it is truly a well, domestic use and irrigation of up to 1/2 of an acre of non-commercial lawn or garden does not require a permit. I have enclosed a copy of ORS 537.545 which specifies this. If it is a well, and therefore an exempt use, you may withdraw your application. We would then refund \$125 of permit recording fees.

If however, the "well" is to intercept surface stream flow or is used to collect spring waters I will continue to process the application. Please drop me a line or call me, our toll free phone number is 1-800-624-3199.

Sincerely,



MICHAEL J. MATTICK
Water Rights Specialist

MJM:
enclosure: ORS 537.545

[m:\letter\38]



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

TECHNICAL REVIEW CHECKLIST

1. Application: 7208
2. Review Date: 4

S indicates information was completed or adequately addressed.
 U indicates information is needed, or incomplete, or inadequately addressed
 N/A indicates Not Applicable

SUMMARY

S Land Use

NA/yes/no Substantial SW interference
 (if yes, see results of surface
 water availability analysis)

S Conflicts

S Water Availability (3103)
 (Water Availability Sub-basin)

S The application, map and supporting
 data are complete and free of defects.

3. S The applicant has certified that the information provided in the application is an accurate representation of the proposed use and is true and correct to the best of their knowledge.

4. NA No oath is required because application was filed before June 5, 1992.

5. S Application fees:

Examination fee:	\$ 200
Recording fee:	\$ 125
TOTAL REQUIRED	\$ 325
TOTAL SUBMITTED	\$ 320
AMOUNT DUE prior to issuance of permit	\$ <u>5</u>
AMOUNT OVERPAID refund due applicant	\$ <u> </u>

6. S Proposed dates of beginning and completion of construction, and complete application of water.

7. S A satisfactory map of the proposed place of water use prepared by a certified water right examiner, unless exempt under OAR 690-14-150(3). (A CWRE map is not required for applications filed before November 9, 1987.)

8. NA A written copy of the legal description of the property on which the water is to be used.
9. NA A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.
10. NA No statement of ownership was required for applications filed before August, 1990.
11. S The proposed use is not restricted or prohibited by statute.
12. S The source of water is not withdrawn from appropriation by order of the State Engineer or Water Resources Commission, or legislatively withdrawn under ORS Chapter 538.
13. S Domestic Exp. use(s) is/are classified uses(s) under the S. Coast Basin Program, OAR 690 - 517-001(8)

Land Use Compatibility:

14. As expressed by the Planning Department of Curry County
15. NA The land uses to be served by proposed water uses (including proposed construction) are allowed or are not regulated by the local comprehensive plan (ordinance section _____).
16. S The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.
17. S The local government was notified, and sent no comment pursuant to the rules at the time; land use was presumed in compliance per such statement printed on the application.

For reservoir applications:

18. NA Plans, specifications and supporting information for the dam and impoundment area.

73081

WATER AVAILABILITY TABLE

Basin: South Coast

Water Availability Subbasin: 3103000000000000 (and Nested Subbasins)

Exceedance Level: 80

Time: 13:27

Date: 04/22/1994

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	3100000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	NO	YES	YES
2	3103000000000000	YES	YES	YES	YES	YES	YES	YES	NO	NO	NO	NO	YES	YES

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast

Stream: CHETCO R

> PACIFIC OCEAN

Water Availability Subbasin: 3100000000000000

Exceedance Level: 80

Time: 13:27

Date: 04/22/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	1640.00	30.00	1610.00	.02	1610.00	350.00	1260.00
2	1970.00	30.00	1940.00	.02	1940.00	350.00	1590.00
3	1860.00	30.00	1830.00	.02	1830.00	350.00	1480.00
4	1060.00	30.00	1030.00	.02	1030.00	350.00	680.00
5	545.00	26.00	519.00	.02	519.00	350.00	169.00
6	276.00	28.00	248.00	.02	248.00	200.00	48.00
7	147.00	29.00	118.00	.02	118.00	100.00	18.00
8	97.60	28.40	69.20	.02	69.20	100.00	-30.80
9	80.60	26.60	54.00	.02	54.00	100.00	-46.00
10	103.00	25.50	77.50	.02	77.00	450.00	-373.00
11	454.00	26.00	428.00	.02	428.00	450.00	-22.00
12	1820.00	30.00	1790.00	.02	1790.00	450.00	1340.00
Stor	1270000	20300	1250000	16	1250000	216000	1030000

DETAILED REPORT OF ISWRs

Basin: South Coast

Stream: CHETCO R

> PACIFIC OCEAN

Water Availability Subbasin: 3100000000000000

Time: 13:27

Date: 04/22/1994

52865

			ISWRs					
APP # :	383A	70908A	0	0	0	RESULTANT		
STATUS: CertificateApplication								
1	350.0	350.0	.0	.0	.0	350.0	C	
2	350.0	350.0	.0	.0	.0	350.0	C	
3	350.0	350.0	.0	.0	.0	350.0	C	
4	350.0	350.0	.0	.0	.0	350.0	C	
5	350.0	350.0	.0	.0	.0	350.0	C	
6	200.0	200.0	.0	.0	.0	200.0	C	
7	80.0	100.0	.0	.0	.0	100.0	A	
8	80.0	100.0	.0	.0	.0	100.0	A	
9	80.0	100.0	.0	.0	.0	100.0	A	
10	450.0	246.0	.0	.0	.0	450.0	C	
11	450.0	450.0	.0	.0	.0	450.0	C	
12	450.0	450.0	.0	.0	.0	450.0	C	

52865 empty Dam, Livestock 1/2 acre

TR Papp 70908 empty h & 1/2 acre.

DETAILED REPORT ON WATER AVAILABILITY

Basin: South Coast

Stream: CHETCO R

> PACIFIC OCEAN

Water Availability Subbasin: 3103000000000000

Exceedance Level: 80

Time: 13:27

Date: 04/22/1994

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Water Available 1/1/93	CU + Stor After 1/1/93	Net Minimum Flow	Instream Water Rights	Net Water Available
1	1420.00	.00	1420.00	.02	1420.00	350.00	1070.00
2	1710.00	.00	1710.00	.02	1710.00	350.00	1360.00
3	1620.00	.00	1620.00	.02	1620.00	350.00	1270.00
4	924.00	.00	924.00	.02	924.00	350.00	574.00
5	477.00	.00	477.00	.02	477.00	350.00	127.00
6	244.00	1.00	243.00	.02	243.00	200.00	43.00
7	126.00	2.00	124.00	.02	124.00	100.00	24.00
8	82.00	1.50	80.50	.02	80.50	100.00	-19.50
9	67.40	.60	66.80	.02	66.80	86.80	-20.00
10	90.10	.10	90.00	.02	90.00	221.00	-131.00
11	410.00	.00	410.00	.02	410.00	450.00	-40.00
12	1590.00	.00	1590.00	.02	1590.00	450.00	1140.00
Stor	1100000	311	1100000	14	1100000	201000	901000

DETAILED REPORT OF ISWRs

Basin: South Coast

Stream: CHETCO R

> PACIFIC OCEAN

Water Availability Subbasin: 3103000000000000

Time: 13:28

Date: 04/22/1994

59830

-----ISWRs-----							
APP # :	382A	70907A	0	0	0	RESULTANT	
STATUS: CertificateApplication							
1	80.0	350.0	.0	.0	.0	350.0	A
2	80.0	350.0	.0	.0	.0	350.0	A
3	80.0	350.0	.0	.0	.0	350.0	A
4	80.0	350.0	.0	.0	.0	350.0	A
5	80.0	350.0	.0	.0	.0	350.0	A
6	80.0	200.0	.0	.0	.0	200.0	A
7	80.0	100.0	.0	.0	.0	100.0	A
8	80.0	100.0	.0	.0	.0	100.0	A
9	80.0	86.8	.0	.0	.0	86.8	A
10	80.0	221.0	.0	.0	.0	221.0	A
11	80.0	450.0	.0	.0	.0	450.0	A
12	80.0	450.0	.0	.0	.0	450.0	A

WaterWatch

O F O R E G O N

RECEIVED

JAN - 7 1993

WATER RESOURCES DEPT.
SALEM, OREGON

January 5, 1993

Water Resources Department
3850 Portland Rd. N. E.
Salem, OR 97310

RE: Application for Permit #73081, Jack Feeney
Nell Cr., Curry Co., Domestic

WaterWatch has reviewed the limited amount of information contained in the public notice of this water right application. Based upon that information, WaterWatch raises the following issues, questions, and concerns:

Is there unappropriated water available for this proposed use? Does the Department have adequate data to accurately determine the 80% exceedence level?

What effect will this proposed use have on instream flows necessary to protect the public's interest in fish, wildlife, recreation, and a healthy aquatic system?

This water source may suffer from water quality problems. Has the Department consulted with the Department of Environmental Quality to determine the effect this proposed withdrawal will have on water quality?

If this water source provides habitat to native fish during any phase of their life cycle, we request that the Department include conditions requiring the installation and maintenance of fish screening and bypass devices prior to any diversion of water.

Given the importance of surface water sources, and the Department's limited enforcement staff, it only makes sense to require this applicant to measure and record water use. Measurement not only helps the Department carry out its statutory mandate to promote the control of water resources for all beneficial uses, it helps the Department protect the public's interest in assuring the use is within the bounds of the permit. ORS 536.220(1)(a), 537.170(5).

Will this proposed use be compatible with Goal 5 elements of the local comprehensive plan?

It is a high priority of the state to eliminate waste and improve the efficiency of water use. OAR690-410-060(1). Statewide policy also calls upon water users to use and maintain their water systems in a manner consistent with the state's priority. OAR 690-410-060(2)(a). What conditions are proposed for this permit that will carry out and encourage compliance with state policy?

Is this an existing illegal use of water? If so, will the continued use without a permit cause harm to existing water rights and the public interest?

We request copies of the draft permit and the Department's technical analysis of this application.

Sincerely,

Jim Myron

WaterWatch of Oregon, Inc. 921 S.W. Morrison, Suite 438 Portland, Oregon 97205 (503) 295-4039

December 28, 1992

JACK B FEENEY
FEENEY, JESSIE L
590 S BANK CHETCO RIVER
BROOKINGS, OR 97415

REFERENCE: File(s) S-73081

We received your application(s) proposing to use water, along with supporting data and fees. Your receipt is enclosed unless you received it earlier. The application has been assigned the above referenced file number and will be reviewed in detail as time allows. If you need to call or write to us, be sure to reference the file number(s) listed above so we may assist you promptly.

Applications which are received in proper form with required maps, supporting data and fees can be considered for approval by issuance of permits following a mandatory 60-day waiting period and after public interest matters are resolved.

Processing of applications which require additional information will be delayed further. If you feel that a delay in the processing of your application will cause a hardship, please advise in writing.

If the application is approved, the use allowed by the permit will be subject to the Water Resources Commission's Basin Program statements, instream flow requirements, and demands of prior rights.

If you have any questions, please contact the Water Right Section at the telephone number referenced below.

CC: CWRE



DRAFT

STATE OF OREGON

COUNTY OF CURRY

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

JACK B. AND JESSIE L. FEENEY
590 SOUTH BANK CHETCO RIVER
BROOKINGS, OREGON 97415

503-469-3075

to use the waters of AN UNNAMED STREAM, a tributary of NELL CREEK, for DOMESTIC USE EXPANDED FOR ONE FAMILY.

This permit is issued approving Application 73081. The date of priority is DECEMBER 18, 1992. The use is limited to not more than 0.01 CUBIC FOOT PER SECOND, or its equivalent in case of rotation, measured at the point of diversion from the source.

The point of diversion is located as follows:

SW 1/4 NE 1/4, SECTION 24, T 40 S, R 13 W, W.M.; 107 FEET NORTH AND 2060 FEET WEST FROM E 1/4 CORNER, SECTION 24.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the proposed place of use under this permit is as follows:

SW 1/4 NW 1/4
SECTION 24
TOWNSHIP 40 SOUTH, RANGE 13 WEST, W.M.

Application No. 73081
Permit No.

RECEIVED

DEC 18 1992

WATER RESOURCES DEPT.
SALEM, OREGON

Jack B. Feeney
590 S. Bank Chetco River
Brookings, Oregon 97415
December 17, 1992

Oregon State Water Resources Dept.
Applications and Permits
3850 Portland Road N.E.
Salem, Oregon 97310

Re: My Water Right Application submitted 11-18 92 and
Communication of 11-25-92 by H. Joseph Mouton.

Dear Sirs:

In addition to the material originally submitted I enclose
the requested Land Use Information form filled out and
signed by the County.


Jack B. Feeney

Application No. 73081
Permit No.

Jack B. Feeney
590 S. Bank Chetco River
Brookings, Oregon 97415
November 18, 1992

RECEIVED

DEC 18 1992

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon State Water Resources Dept.
Applications and Permits
3850 Portland Road N.E.
Salem, Oregon 97310

RECEIVED

NOV 24 1992

WATER RESOURCES
SALEM, OREGON

Dear Sirs:

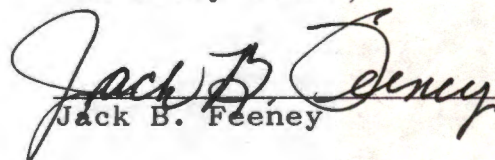
I wish to apply for a certificate of water rights.

To this end I enclose the following material:

- (1) My check in the amount of \$325.00
- (2) Signed Permit Application
- (3) Permit Application Map
- (4) My property deed including pertinent easements
- (5) Recorded Easement to transport water across lands of Sierka to my property

Thank you for your consideration.

Sincerely Yours,


Jack B. Feeney

73081

November 25, 1992

WATER
RESOURCES
DEPARTMENT

Jack B. Feeney and Jessie L. Feeney
00590 South Bank Road
Brookings, OR 97415

We have reviewed an application to use water. We need additional information so we can accept, review and decide if an application may be approved.

Please provide the following:

- _____ A map containing the Township, Range, Sections and Quarter, Quarter of the property applied for.
- _____ A legal description of the property where you plan to use water. You can copy this from your deed, title insurance policy or sales contract.
- X Land-use information signed by the County. (required before we can accept the application, a form is enclosed)
- _____ An oath that the information contained in the application is a true and accurate representation of the proposed water use.
- _____ Total fees in the amount of \$.
- _____ Other: The application, supporting data and check no. 1790 in the amount of \$325.00 is being returned.

We will complete our analysis when the application and information noted above is received.

Contact the Application/Permits Section at 378-3739 if you have any questions.

Enclosures

H. Joseph Mouton

Joel/HJM

cc: CWRE



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

<u>DATE</u>	<u>INITIALS</u>	<u>MINIMUM REQUIREMENTS TO FILE</u>																												
12/18	CW	Name and mailing address _____																												
		Source of water _____																												
		Quantity of water _____																												
		Location of project _____																												
		Use of water _____																												
		Signature of applicant _____																												
		Allowable use by policy _____																												
		State Engineer withdrawal _____																												
		Legislative withdrawal _____																												
		Land use approved _____ pending _____																												
<u>FIELD OPERATIONS</u>																														
		Application date stamped per money receipt date _____																												
		Stream Indexed _____																												
		Stream Code _____																												
		Scenic Waterway _____																												
		Findings:																												
		1) Concluded - Scenic-Reg Ack letter _____																												
		2) Under Study - Scenic-Ack letter _____																												
		3) Basin 2 - Willamette-Ack letter _____																												
		Plat Carded and copy made _____ <u>YES</u> <u>NO</u>																												
		Conflicts (well _____ surface _____) _____																												
		Prior ISWR # _____																												
		Within Irrigation District _____ (name) _____																												
		Notified _____																												
		District excerpt received _____																												
		Entered in Paradox _____																												
		Prepare six copies of Draft Permit _____																												
		Send one copy to Data Center _____																												
<u>SUPPORT SERVICES</u>																														
		Stamp contents with application number _____																												
		Mail/Provide copies of draft permits to DEQ, ODFW, PARKS, AND WATERMASTER _____																												
		Mail ack letter (provided by Data Center) with receipt to applicant, cc to CWRE and file _____																												
		Place label on file and card _____																												
		If dam is over 10 feet or storage exceeds 9.2 AC-FT, route file to Dam Safety Section _____																												
		Notify Irrigation District _____																												
<u>FIELD OPERATIONS</u>																														
		Ownership Statement <u>YES</u> <u>NO</u>																												
		Name and address of all owners _____																												
		Other landowners notified _____																												
		Legal Description _____																												
		Need Commission review _____																												
		Requests greater than 5.0 cfs _____																												
		Dam height greater than 20 feet _____																												
		Storage greater than 100 acre-feet _____																												
		Out of Basin diversion _____																												
		Groundwater recharge project _____																												
		Other substantial public interest _____																												
		GW comments received _____ resolved _____																												
		ODFW comments received _____ resolved _____																												
		DEQ comments received _____ resolved _____																												
		Interest Groups _____																												
		Water availability received _____																												
		Objections received _____ resolved _____																												
		Protest received _____ resolved _____																												
		Management Codes _____																												
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