



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

COW CREEK BAND OF UMPQUA TRIBE OF INDIANS
ATTN: WAYNE SHAMMEL
2371 NE STEPHENS ST SUITE 100
ROSEBURG, OR 97470

August 8, 2008

Reference: File R-87192

Dear Mr. Shammel:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

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

Initial Review Determinations:

1. The application proposed to divert 365.0 acre-feet (AF) of water from South Umpqua River, a tributary of Umpqua River, for storage in Cow Creek Reservoir 1, for quasi-municipal use.

The proposed dam height is 86.0 feet and the proposed area to be inundated by Cow Creek Reservoir 1 is 12.0 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from South Umpqua River, a tributary of Umpqua River, for storage in Cow Creek Reservoir 1 is allowable under the Umpqua Basin Program.
4. Surface water, in the amount of 365.0 AF, is available for diversion from November 1 through June 30 of each year.

Under the Umpqua Basin Program, OAR 690-516-0005, water from South Umpqua River may only be appropriated October 1 through July 14 of each year.

5. Under the Umpqua Basin Program, all applications for appropriations of water for storage in structures impounding more than 3,000,000 gallons of water (equivalent to 9.2 AF) shall be reviewed by the Water Resources Commission (Commission). If you wish to proceed with this application to store 900.0 AF, then the Department will schedule your application to go before the Commission for review and consideration. During the review, the Commission may establish additional minimum flows on the natural flow of the stream to support aquatic life or minimize pollution. If the Commission review is favorable, the proposed use will be deemed allowable under the Umpqua Basin Program.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

Summary of Initial Determinations

The diversion of 365.0 AF of water from South Umpqua River, a tributary of Umpqua River to be stored in Cow Creek Reservoir 1 for quasi-municipal use is allowable November 1 through June 30 of each year.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process where public interest factors will be evaluated.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$150 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, August 22, 2008**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

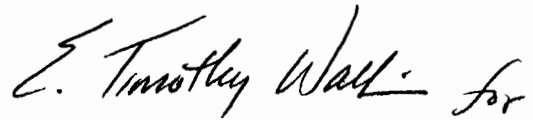
This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a proposed final order. You should be aware that,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

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

If you have any questions:

Feel free to call me at 503-986-0808 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Brook Geffen, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Handwritten signature of E. Timothy Wall in cursive script, followed by the word "for" in a smaller, simpler font.

Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87192
WAB 16-71192
POU 16-71192
GW-NA

APPLICATION FACT SHEET

Application File Number: R-87192

Applicant: COW CREEK BAND OF UMPQUA TRIBE OF INDIANS, ATTN: WAYNE SHAMMEL

County: DOUGLAS

Watermaster: 15

Priority Date: JUNE 10, 2008

Source: SOUTH UMPQUA RIVER, A TRIBUTARY OF UMPQUA RIVER, TO BE DIVERTED FOR STORAGE NOVEMBER 1 THROUGH JUNE 30 OF EACH YEAR

Use: QUASI-MUNICIPAL USE

Quantity: 365.0 ACRE FEET

Basin Name & Number: Umpqua, #16

Stream Index Reference: Volume 3 S UMPQUA R

Points of Diversion:

POD 1 - SWSW, SECTION 22, T30S, R5W, W.M.; 535 FEET NORTH AND 950 FEET EAST FROM SW CORNER, SECTION 22

POD 2 - SESE, SECTION 21, T30S, R5W, W.M.; 1150 FEET NORTH AND 780 FEET WEST FROM SE CORNER, SECTION 21

Place of Use:

NE $\frac{1}{4}$ NW $\frac{1}{4}$

NW $\frac{1}{4}$ NW $\frac{1}{4}$

SW $\frac{1}{4}$ NW $\frac{1}{4}$

SE $\frac{1}{4}$ NW $\frac{1}{4}$

SECTION 28

TOWNSHIP 30 SOUTH, RANGE 5 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 22, 2008

PUBLIC NOTICE DATE: Tuesday, August 12, 2008

30 DAY COMMENT DEADLINE DATE: Thursday, September 11, 2008