



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

CERTIFIED MAIL Return Receipt Requested

April 27, 2007

MARIO DYKES
ZAN DYKES
22 TOMJACK RD
TOLEDO, OR 97391

Reference: File S-86702

Dear Mr. and Mrs. Dykes:

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

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

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule except where otherwise noted below.
2. The use of water from two springs, tributary to Beaver Creek, for domestic expanded use for two households is allowable under the Middle Coast Basin Program.
3. Surface water is not available in the amount requested during the period requested. However, by providing additional information you may be able to pursue a permit for a limited, human consumption use (cooking, drinking, and sanitation). Please refer to the **Additional Information Opportunity** section below for details.
4. Upon further review of the application map, it appears that the diversion coordinates have been measured from the SE corner of the SW $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12 and the scale used should be one inch is equivalent to 500 feet. Please make any necessary changes to the enclosed map, initial, and return to the Department.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.02 cubic foot per second of water from two springs, tributary to Beaver Creek for domestic expanded use is not allowable, and it appears unlikely that you will be issued a permit. However, by providing additional information you may be able to pursue a limited permit for human consumption use (cooking, drinking, sanitation) at a rate of 0.01 cubic foot per second for two households. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Opportunity

Due to requirements for existing water rights and/or minimum flows in a scenic waterway, water is not available in sufficient quantities to support the proposed use. However, human consumption of water (cooking, drinking and sanitation) from the proposed source may be considered a high public interest use if there is no reasonable alternative. If you can provide evidence that this is the case, we will work with the Oregon Department of Fish and Wildlife to attempt to determine conditions which will protect instream values during the months when instream flow requirements are not met. These conditions may include mitigation measures to offset the impact of the requested use.

Please complete and return the attached “Application Supplement for Human Consumption & Livestock Uses” form. **Please submit the information no later than Thursday, May 31, 2007.** If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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

At this time, you must decide whether to proceed or to withdraw your application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, May 11, 2007**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

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

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

1. Measurement, recording and reporting conditions:

- A. The Director may require the permittee to install a totalizing flow meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a totalizing flow 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.
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 503-986-0853 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: Alyssa Mucken, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Alyssa Mucken
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-86702
WAB 18-526
POU 18-526
GW

APPLICATION FACT SHEET

Mail to: *Applicant, Watermaster, District Biologist (ODFW)*
If necessary, also mail to : Regional Water quality manager (DEQ), and DOA

Application File Number: S-86702

Applicant: MARIO DYKES AND ZAN DYKES

County: Lincoln

Watermaster: 1

Priority Date: October 16, 2006

Source: TWO SPRINGS, TRIBUTARY TO BEAVER CREEK

Use: DOMESTIC EXPANDED USE FOR TWO HOUSEHOLDS

Quantity: 0.02 CUBIC FOOT PER SECOND

Basin Name & Number: Middle Coast, #18

Stream Index Reference: Volume 1A DEPOE CR & MISC

Point of Diversions:

SPRING 1: SENW, SECTION 12, T11S, R11W, W.M.; 28.1 FEET NORTH AND
1515.9 FEET WEST FROM SE CORNER, SWNE, SECTION 12

SPRING 2: SENW, SECTION 12, T11S, R11W, W.M.; 315.7 FEET NORTH AND
1382.3 FEET WEST FROM SE CORNER, SWNE, SECTION 12

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 12
TOWNSHIP 11 SOUTH, RANGE 11 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 11, 2007

PUBLIC NOTICE DATE: Tuesday, May 1, 2007

30 DAY COMMENT DEADLINE DATE: Thursday, May 31, 2007

Mailing List for IR Copies

Application #S-86702

IR Date : April 27, 2007

Original mailed to:

Applicant: MARIO DYKES AND ZAN DYKES, 22 TOMJACK RD, TOLEDO, OR 97391

Copies sent to:

1. WRD - File # S-86702
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 1 (include Division 33 form)
4. WRD - Regional Manager: Western Region
5. ODFW: Bob Buckman (include Division 33 form)
6. DEQ: John Blanchard (include Division 33 form)
7. Department of Agriculture

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

8. _____

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

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Caseworker: Alyssa Mucken