



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
503-378-3739
FAX 503-378-8130

October 17, 2003

MEHRTEN HOMER
PO BOX 485
FOSSIL, OR 97830

(541)763-4907

Reference: File S-85630

Dear Applicant:

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 AN UNNAMED SPRING, A TRIBUTARY OF HOOVER CREEK AND HOOVER CREEK, A TRIBUTARY OF BUTTE CREEK, for DOMESTIC is classified for IRRIGATION USE ON 230.0 ACRES from January 1 through September 30 under OAR 690-506, the John Day Basin Program.
3. The applicant requested the use of up to 0.025 CFS (11 GPM) of water for domestic use expanded for one household. The Department's general state-wide standard for one household, however, is limited to 0.01 CFS (4.5 GPM). **Therefore, the use requested under this application shall be limited to 0.01 CFS of water for domestic use expanded for one household when water is available.**

4. Water in the amount of 4.76 cubic feet per second (cfs) , being 0.01 cfs for domestic and 4.75 cfs irrigation use on 230.0 acres **is available** from January 1 through the last day of February and during the month of April. During the month of March and from May 1 through December 31, water is not available due to instream flows necessary to serve the John Day River Scenic Waterway.
5. Use of water from direct flow **is not allowed** April 15 through September 30 except for domestic use (OAR-690-33).
6. Because water is not available, DOMESTIC USE EXPANDED AND IRRIGATION USE cannot be allowed. However, by providing additional information, you may pursue a limited permit. Please see "**ADDITIONAL INFORMATION OPPORTUNITY**" below for more information.
7. Although water is not available during the entire season requested, namely November through March, water for irrigation may be allowed during the limited time period of January 1 through February 28.

Summary of Allowable Water Use

Because items #4 and #5 above are unfavorable, the use 0.01 cfs of water from an unnamed spring, a tributary of Hoover Creek, for domestic use expanded for one household is not allowable, and it appears unlikely that you will be issued a permit. At this time, you must decide whether to proceed or to withdraw your application as described below.

The use of 4.75 cfs of water from Hoover Creek, a tributary of Butte Creek, for irrigation of 230.0 aces is allowable from January 1 through February 28 of each year.

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

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, October 24, 2003**. 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.

ADDITIONAL INFORMATION OPPORTUNITY:

As noted in item #4 on the second page of this letter, during the month of March and from May 1 through December 31, water is not available due to instream flows necessary to serve the John Day River Scenic Waterway. However, by rule, additional uses may be allowed where public interest in the use is high and the use is conditioned to the John Day River Scenic Waterway (OAR 690-410-070(2)(a) & 690-310-260(2)). Human consumption of water from the proposed source may be considered a high public interest use if there is no reasonable alternative. This may be especially true if denial of the application will result in loss of reasonable expectations for use of the property.

During the month of March and from May 1 through December 31, you may be able to obtain a permit limited to human consumption use, but only if you can provide satisfactory answers to the questions on the attached "Application Supplement for Human Consumption & Livestock Uses". If you do, we will work with the Oregon Department of Fish and Wildlife to determine conditions which will protect instream values. These conditions may include mitigation measures to offset the impact of the requested use.

To pursue a permit which allows the use of 0.005 cfs for human consumption use only during the period March 1 through March 31 and from May 1 through December 31 and 0.01 cfs for domestic use expanded during the period January 1 through February 28 and during the month of April, please complete and return the attached form.

Please provide the attached "Supplemental Form" no later than **Thursday, November 20, 2003**. If you are unable to submit this information, you may request that we withhold processing of your application 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 your request is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

Please note that comments are being solicited from other agencies, including Oregon Department of Fish & Wildlife. Comments they provide could result in further limitations or denial of this application.

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

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. 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 permittee may submit evidence that the Oregon Department of Fish and Wildlife (ODFW) has determined screens and/or fishways are not necessary. The required screens and fishways are to be in place, functional, and approved by ODFW before diversion of any water.
3. The tentative priority date for this application is June 2, 2003.

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

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at 503-986-0801. Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter. Please have your application number available if you call. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271, Fax: 503-986-0901.

Sincerely,

A handwritten signature in black ink that reads "Kerry Lefever". The signature is written in a cursive, flowing style.

Kerry Lefever
Water Right Application Caseworker

enclosures: Flow Chart of Water Right Process
 Stop Processing Form

S-85630
wab 6-30620409
pou 6-30620409
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-85630

Applicant: MEHRTEN HOMER

County: Wheeler

Watermaster: 21

Priority Date: June 02, 2003

Source: HOOVER CREEK, A TRIBUTARY OF BUTTE CREEK; A SPRING, A TRIBUTARY
OF HOOVER CREEK

Use: DOMESTIC; OUT OF SEASON IRRIGATION USE ON 230.0 ACRES

Quantity: 4.775 CUBIC FEET PER SECOND (CFS), BEING 0.025 CFS FOR DOMESTIC AND
4.75 CFS FOR OUT OF SEASON IRRIGATION

Basin Name & Number: John Day, #6

Stream Index Reference: Volume 1A BUTTE CR MISC

Point of Diversion Locations:

POD 1 - SWNW SECTION 23, T6S, R21E, W.M.; 10 FEET NORTH & 630 FEET
EAST FROM W1/4 CORNER, SECTION 23

POD 2 - NESW SECTION 22, T6S, R21E, W.M.; 2000 FEET NORTH & 1000 FEET
WEST FROM S1/4 CORNER, SECTION 22

POD 3 - NWSW SECTION 22, T6S, R21E, W.M.; 1900 FEET NORTH & 1330 FEET
WEST FROM S1/4 CORNER, SECTION 22

POD 4 - NWSE SECTION 21, T6S, R21E, W.M.; 2520 FEET NORTH & 1650 FEET
WEST FROM SE CORNER, SECTION 21

POD 5 - NWSW SECTION 21, T6S, R21E, W.M.; 1700 FEET NORTH & 1150 FEET
EAST FROM SW CORNER, SECTION 21

POD 6 - NWN SECTION 29, T6S, R21E, W.M.; 350 FEET SOUTH & 1500 FEET WEST FROM NE CORNER, SECTION 29

POD 7 - SWNE SECTION 29, T6S, R21E, W.M.; 1830 FEET SOUTH & 1620 FEET WEST FROM NE CORNER, SECTION 29

POD 8 - SWSW SECTION 29, T6S, R21E, W.M.; 1530 FEET SOUTH & 900 FEET WEST FROM C-W1/16 CORNER, SECTION 29

SPRING POD - SWSE SECTION 20, T6S, R21E, W.M.; 200 FEET NORTH & 1500 FEET WEST FROM SE CORNER, SECTION 20

Place of Use: NESE 1.9 ACRES OUT OF SEASON IRRIGATION SESE 0.3 ACRES OUT OF SEASON IRRIGATION, SECTION 20 SWNE 14.2 ACRES OUT OF SEASON IRRIGATION SENE 0.3 ACRES OUT OF SEASON IRRIGATION SENW 0.6 ACRES OUT OF SEASON IRRIGATION NESW 3.4 ACRES OUT OF SEASON IRRIGATION NWSW 2.4 ACRES OUT OF SEASON IRRIGATION NESE 13.5 ACRES OUT OF SEASON IRRIGATION NWSE 9.5 ACRES OUT OF SEASON IRRIGATION, SECTION 21 SWNE 8.3 ACRES OUT OF SEASON IRRIGATION SENE 8.0 ACRES OUT OF SEASON IRRIGATION SWNW 7.0 ACRES OUT OF SEASON IRRIGATION SENW 2.4 ACRES OUT OF SEASON IRRIGATION NESW 3.7 ACRES OUT OF SEASON IRRIGATION NWSW 14.2 ACRES OUT OF SEASON IRRIGATION NESE 0.1 ACRES OUT OF SEASON IRRIGATION NWSE 4.0 ACRES OUT OF SEASON IRRIGATION, SECTION 22 SWNW 2.6 ACRES OUT OF SEASON IRRIGATION, SECTION 23 NWNE 16.7 ACRES OUT OF SEASON IRRIGATION SWNE 17.3 ACRES OUT OF SEASON IRRIGATION NENW DOMESTIC SENW 12.8 ACRES OUT OF SEASON IRRIGATION NESW 4.0 ACRES OUT OF SEASON IRRIGATION NWSW 28.8 ACRES OUT OF SEASON IRRIGATION SWSW 8.8 ACRES OUT OF SEASON IRRIGATION, SECTION 29 NESE 11.9 ACRES OUT OF SEASON IRRIGATION SESE 33.3 ACRES OUT OF SEASON IRRIGATION, SECTION 30, TOWNSHIP 6.0 SOUTH, RANGE 21.0 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 31, 2003

PUBLIC NOTICE DATE: Tuesday, October 21, 2003

30 DAY COMMENT DEADLINE DATE: Thursday, November 20, 2003