



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

WILLIAM LEET
3485 OYSTER BAY AVE
DAVIS, CA 95616

June 12, 2009

USDA FOREST SERVICE
1230 NE 3RD ST SUITE A 262
BEND, OR 97701

Reference: File S-86956

Dear Applicants:

**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 the use of 0.03 cubic foot per second (CFS) of water from a spring, a tributary of Elk Lake, for human consumption use for three households June 1 through October 1.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from a spring, a tributary of Elk Lake, for human consumption use is allowable under the Deschutes Basin Program.
4. The standard allowable rate for human consumption for three households is 0.01 CFS. Your application requested 0.03 CFS for three households. If the application is approved, the rate allowed will be limited to 0.01 CFS, further limited to 500 gallons per day (GPD) per household.
5. Surface water is available for human consumption (indoor use only: cooking, drinking, and sanitation) at a rate of 0.01 CFS, further limited to 500 gallons per day per household, as this amount is *de minimis* (insignificant) and would not likely have an adverse affect on downstream water given that there is no overland downstream flow from Elk Lake.
6. The proposed use is located above the Deschutes Scenic Waterway, as designated under ORS 390.826.

7. The application proposed the use of water for three households. However, the map submitted with the application shows four households (cabins). If you intend to apply for water for four cabins, please submit clarification by June 11, 2009. If the Department does not receive clarification, the Department will proceed with the application for three cabins only.
8. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The use of 0.01 CFS for three households, further limited to 500 GPD for each household, from a spring, a tributary of Elk Lake, for human consumption use June 1 through October 1 is allowable during the full period requested.

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.

Additional Information Required:

Additional information is required to process your application. Prior to issuance of any Proposed Final Order that may recommend approval, the Department requires an updated map. The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that shows the following:

- The point of diversion by reference to a recognized public land survey corner. The reference may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).

Please submit this information no later than July 16, 2009. 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.

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, June 26, 2009**. 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.
 - B. The permittee 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.
 - C. 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring 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 503-986-0808 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,

A handwritten signature in black ink that reads "Brook Geffen". The signature is written in a cursive, slightly slanted style.

Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-86956

APPLICATION FACT SHEET

Application File Number: S-86956

Applicant: WILLIAM LEET U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

County: DESCHUTES

Watermaster: 11

Priority Date: AUGUST 3, 2007

Source: A SPRING, A TRIBUTARY OF ELK LAKE

Use: HUMAN CONSUMPTION USE FOR THREE HOUSEHOLDS

Quantity: 0.03 CUBIC FOOT PER SECOND

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 1 DESCHUTES R MISC

Point of Diversion or Well Location(s): NESW, SECTION 29, T18S, R8E, W.M.;

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 29
TOWNSHIP 18 SOUTH, RANGE 8 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 26, 2009

PUBLIC NOTICE DATE: Tuesday, June 16, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, July 16, 2009

Mailing List for IR Copies

Application #S-86956

IR Date: June 12, 2009

Original mailed to applicant:

WILLIAM LEET
3485 OYSTER BAY AVE
DAVIS, CA 95616

U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE, ATTN: PHIL CRUZ
1230 NE 3RD ST SUITE A 262
BEND, OR 97701

Copies sent to:

1. WRD - File # S-86956
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent VIA EMAIL to:

3. WRD - Regional Manager (not SCR):
4. WRD - Watermaster # 11 (include Division 33 form)
5. ODFW: (include Division 33 form)
6. DEQ: (include Division 33 form)
7. Department of Agriculture

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

Charles Martin, 3651 Florence Street, Redwood City, CA, 94063

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

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

Caseworker: Brook Geffen

COPY SHT.IR

REMINDER: Copy **all** IR's for uses in the Klamath Basin to DEQ and ODFW contacts, regardless of whether they are subject to Division 33. (If they are not subject to Division 33, do not include Division 33 forms.)