



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

June 12, 2009

ROBERT GILMAN
3005 QUIET CANYON DR
BEND, OR 97701

USDA FOREST SERVICE
CRESCENT RANGER DISTRICT
PO BOX 208
CRESCENT, OR 97733

Reference: File S-87434

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 diversion of 0.005 cubic foot per second (CFS) of water from Odell Lake, a tributary of Odell Creek, for domestic use for one household from May 1 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Odell Lake, a tributary of Odell Creek, for domestic use is allowable under the Deschutes Basin Program.
4. Surface water is not available for domestic use. However, surface water is available for a *de minimis* (insignificant) use, being human consumption (indoor use only: cooking, drinking, and sanitation) at a rate of 0.005 CFS, further limited to 500 gallons per day per household, as this amount would not likely have an adverse affect on downstream water given that there is no overland downstream flow from Odell Lake.

If you would like to amend your application to human consumption use at a rate of 0.005 CFS please send your written request by **Thursday, July 16, 2009**.

5. The proposed use is located above the Deschutes Scenic Waterway, as designated under ORS 390.826.

Summary of Allowable Water Use

The use of 0.005 CFS of water from Odell Lake, a tributary of Odell Creek, for domestic use for one household from May 1 through October 31 is not allowable. However, if the application is amended to human consumption (indoor use only: cooking, drinking, and sanitation) at a rate of 0.005 CFS, further limited to 500 gallons per day per household, the Department will likely proceed with a Proposed Final Order recommending approval.

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 \$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.

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. 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 appropriation. 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 any 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 and 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.

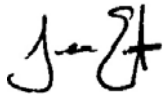
This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, 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 503-986-0859 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: Jeana Eastman, 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, appearing to read 'J. Eastman'.

Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87434
WAB 5-
POU 5-
GW

APPLICATION FACT SHEET

Application File Number: S-87434

Applicant: ROBERT GILMAN, AND USDA FOREST SERVICE

County: Klamath

Watermaster: 2

Priority Date: April 8, 2009

Source: ODELL LAKE, A TRIBUTARY OF ODELL CREEK

Use: DOMESTIC USE FOR ONE HOUSEHOLD

Quantity: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 1A ODELL L & MISC

Point of Diversion or Well Location(s): SWSE, SECTION 7, T23S, R6E, W.M.; 1000 FEET NORTH AND 3600 FEET EAST FROM SW CORNER, SECTION 7

Place of Use:

NW $\frac{1}{4}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 7
TOWNSHIP 23 SOUTH, RANGE 6 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-87434

IR Date: June 12, 2009

Original mailed to applicant:

ROBERT GILMAN
3005 QUIET CANYON DR
BEND, OR 97701

USDA FOREST SERVICE
CRESCENT RANGER DISTRICT
PO BOX 208

Copies sent to:

1. WRD - File # S-87434
2. WRD - Water Availability: Ken Stahr

CW email IR

3. WRD - Watermaster # 11
4. ODFW:
5. DEQ:

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
8. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
9. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
10. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
PO Box 638, 73239 Confederated Way, Pendleton, OR 97801
11. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

Caseworker: Jeana Eastman

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