



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 26, 2009

ROBECK ENTERPRISES, INC.
ATTN: ROB WILLIAMS
12993 SW CORNETT LOOP
POWELL BUTTE, OR 97753

Reference: File R-87409

Dear Mr. Williams:

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 store 60.0 acre feet (AF) of water in Six Shooter Ranch Pond, an in-channel reservoir, submerging 7.5 acres, with a dam height of 22.0 feet, to be filled by an unnamed tributary to Horseshoe Creek, tributary to John Day River, for fish, wildlife and recreation use.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from unnamed stream, a tributary of Horseshoe Creek, for storage is allowable under the John Day Basin Program.
4. Surface water is **not** available during the period July 1 through November 30.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
6. The proposed use is located above the John Day River Scenic Waterway, as designated under Oregon Administrative Rule 736-040-0065.
7. Prior to issuance of a permit and construction of the project, final dam designs and specifications must be submitted to the Department and approved by the Department's dam-safety engineer.

Summary of Initial Determinations

The use of 60.00 AF of water from an unnamed stream, a tributary of Horseshoe Creek, for storage may be allowed December 1 through April 14.

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to **#4 and #5** above, your application will likely be limited accordingly.

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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, July 10, 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, a staff gage that measures the entire range and stage between full reservoir level and dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
 - B. The permittee shall maintain all required devices in good working order.
 - C. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. 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.
 - E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

2. The permittee is required to pass all live flow outside the storage season. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
3. 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.
4. Diversion of water under this right may be regulated while state Scenic Waterway flows are unmet downstream.

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: Michele McAleer, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Michele McAleer
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87409
WAB 6-30620421
POU 6-30620421
GW

APPLICATION FACT SHEET

Application File Number: R-87409

Applicant: ROBECK ENTERPRISES, INC.

County: WHEELER

Watermaster: 21

Priority Date: MARCH 5, 2009

Source: UNNAMED STREAM, A TRIBUTARY OF HORSESHOE CREEK

Use: STORAGE

Quantity: 60.0 ACRE FEET

Basin Name & Number: JOHN DAY, #6

Stream Index Reference: Volume 1A JOHN DAY BL KIMBERLY MISC

Dam Location:

SWSE, SECTION 27, T10S, R23E, W.M.; 317 FEET NORTH AND 2376 WEST
FROM SE CORNER, SECTION 27

Point of Diversion:

SESW, SECTION 27, T10S, R23E, W.M.; 481 FEET NORTH AND 2238 FEET EAST
FROM SW CORNER, SECTION 27

Place of Use:

SE $\frac{1}{4}$ SW $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 27

NW $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 34

TOWNSHIP 10 SOUTH, RANGE 23 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 10, 2009

PUBLIC NOTICE DATE: Tuesday, June 30, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, July 28, 2009

Mailing List for IR Copies

Application #R-87409

IR Date : June 26, 2009

Original mailed to applicant:

ROBECK ENTERPRISES, INC. , 12993 SW CORNETT LOOP, POWELL BUTTE, OR 97753

Copies sent to:

1. WRD - File # R-87409
2. WRD - Water Availability: Ken Stahr
3. WRD - Dam Safety

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent VIA E-MAIL to:

4. WRD - Regional Manager: NCR
5. WRD - Watermaster # 21
6. ODFW: Tim Unterwegner
7. DEQ: Pat Vernon

IR, Map, and Fact Sheet Copies sent to:

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

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

15. Newton Consultants, Inc., Attn: David J. Newton, 521 SW 6th Street, Suite 100, Redmond, OR 97756

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

COPYSH.T.IR

Caseworker: Michele McAleer