



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 5, 2009

DAVID AND THERESA COWAN
7647 LIBBY RD NE
OLYMPIA, WA 98506

Reference: File R-87430

Dear Mr. and Mrs. Cowan:

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 96.0 acre feet (AF) of water in Whitmore Reservoir, an in-channel reservoir, submerging 15.8 acres with a dam height of 20.0 feet. This previously constructed reservoir will be filled by runoff and a spring, tributaries to Fishhole Creek, tributary to South Fork Sprague River for year-round wildlife and stock-watering uses.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Under ORS 536.340(1)(a), the Water Resources Commission may establish a basin program to classify sources of water supply as to the highest and best use and quantities of use, and that classification of sources of water supply has the effect of restricting the use and quantities of use thereof to the uses and quantities of uses specified in the classification. The Commission has not established a basin program for the Klamath River basin. Therefore, neither the proposed use nor the quantity of water is restricted as a result of this consideration.
4. The proposed use is located above the Klamath River Scenic Waterway, as designated under Oregon Revised Statute 390-826(2).
5. Surface water is not available during the month of February and from June through December.
6. Prior to beginning construction of the project or issuance of a permit, dam designs and specifications must be submitted to the Department, and the Department's dam safety section must approve the plans and specifications in writing.

Summary of Initial Determinations

The storage of 96.0 AF of water from runoff and a spring, tributaries to Fishhole Creek, for livestock and wildlife uses may be allowed, limited to March 1 through May 31 of each year.

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 #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 \$150 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, June 19, 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. 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.
3. 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.
4. Diversion of water under this right may be regulated while state Scenic Waterway flows are unmet downstream. The Director may require the user to monitor flows at one or more specific downstream location(s) electronically online, and discontinue use while state Scenic Waterway flows are not met at those locations. At the discretion of the Director, the location and nature of the monitoring may be subject to change.

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-87430
WAB 14-70802
POU 14-70802

APPLICATION FACT SHEET

Application File Number: R-87430

Applicant: DAVID AND THERESA COWAN

County: KLAMATH

Watermaster: 17

Priority Date: March 27, 2009

Source: RUNOFF AND A SPRING, TRIBUTARIES OF FISHHOLE CREEK

Use: LIVESTOCK AND WILDLIFE

Quantity: 96.0 ACRE FEET

Basin Name & Number: Klamath, #14

Stream Index Reference: Volume 2A FISHHOLE CR & MISC

DAM LOCATION: NWSE, SECTION 33, T36S, R14E, W.M.; 2540 FEET NORTH AND 2176 FEET WEST FROM SE CORNER, SECTION 33

Place of Use:

SW $\frac{1}{4}$ NE $\frac{1}{4}$

SE $\frac{1}{4}$ NW $\frac{1}{4}$

NE $\frac{1}{4}$ SW $\frac{1}{4}$

NW $\frac{1}{4}$ SE $\frac{1}{4}$

SECTION 33

TOWNSHIP 36 SOUTH, RANGE 14 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 19, 2009

PUBLIC NOTICE DATE: Tuesday, June 9, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, July 9, 2009

Mailing List for IR Copies

Application #R-87430

IR Date : June 5, 2009

Original mailed to applicant:

DAVID AND THERESA COWAN , 7647 LIBBY RD NE, OLYMPIA, WA 98506

Copies sent to:

1. WRD - File # R-87430
2. WRD - Water Availability: Ken Stahr
3. WRD - Dam Safety, George Robison

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent **Via E-mail** to:

4. WRD - Watermaster # 17 (include Division 33 form)
5. ODFW: Bill Tinniswood (include Division 33 form)
6. DEQ: Eric Nigg (include Division 33 form)

IR, Map, and Fact Sheet Copies sent to:

7. Department of Agriculture
8. State Parks
9. Division of State Lands

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

10. Kevin Newman, General Delivery, Bly, OR 97622

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

11. Darryl J. Anderson, CWRE #005, Anderson Engineering and Surveying, PO Box 28, Lakeview,
OR 97630

COPYSHT.IR

Caseworker: Michele McAleer

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.)