



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

July 24, 2009

ERNIE AND LU ANN RUSSELL
40200 SE CEDAR CREEK LN
SANDY, OR 97055

Reference: File S-87480

Dear Mr. and Mrs. Russell:

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 Cedar Creek, a tributary of Sandy River, for year-round domestic use for one household.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Cedar Creek, a tributary of Sandy River, for domestic use is allowable under the Sandy Basin Program.
4. Surface water is not available at any time of year. However, by providing additional information you may request a limited permit for human consumption use (indoor use only: cooking, drinking, and sanitation), limited to 500 gallons per day. Please refer to the **Additional Information Opportunity** section below for details.
5. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
6. The proposed use is located above the Sandy River Scenic Waterway, as designated under Oregon Administrative Rule 736-040-0075.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.005 CFS of water from Cedar Creek, a tributary of Sandy River, for year-round domestic use for one household is not allowable,

and it appears unlikely that you will be issued a permit unless suitable mitigation is provided. However, by providing additional information you may request a limited permit for human consumption use (indoor use only: cooking, drinking, sanitation), limited to 500 gallons per day. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Opportunity

Due to requirements for existing water rights and/or minimum flows in a scenic waterway, water is not available in sufficient quantities to support the proposed use. However, human consumption of water (indoor use only: cooking, drinking and sanitation) from the proposed source may be considered a high public interest use if there is no reasonable alternative. If you can provide evidence that this is the case, we will work with the Oregon Department of Fish and Wildlife to attempt to determine conditions which will protect instream values during the months when instream flow requirements are not met. These conditions may include mitigation measures to offset the impact of the requested use.

Please complete and return the attached "Application Supplement for Human Consumption & Livestock Uses" form. **Please submit the information no later than Thursday, August 27, 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 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.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, August 7, 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 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 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-87480
WAB 3-71548
POU 3-71548
GW

APPLICATION FACT SHEET

Application File Number: S-87480

Applicant: ERNIE AND LU ANN RUSSELL

County: Clackamas

Watermaster: 20

Priority Date: June 26, 2009

Source: CEDAR CREEK, A TRIBUTARY OF SANDY RIVER

Use: DOMESTIC USE FOR ONE HOUSEHOLD

Quantity: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: Sandy, #3

Stream Index Reference: Volume 2 CEDAR CR & MISC

Point of Diversion or Well Location(s): NWNW, SECTION 18, T2S, R5E, W.M.; 750 FEET SOUTH AND 465 FEET EAST FROM NW CORNER, SECTION 18

Place of Use:

NW $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 18
TOWNSHIP 2 SOUTH, RANGE 5 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 7, 2009

PUBLIC NOTICE DATE: Tuesday, July 28, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, August 27, 2009

Mailing List for IR Copies

Application #S-87480

IR Date: July 24, 2009

Original mailed to applicant:

ERNIE AND LU ANN RUSSELL , 40200 SE CEDAR CREEK LN, SANDY, OR 97055

Copies sent to:

1. WRD - File # S-87480
2. WRD - Water Availability: Ken Stahr

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent to:

3. Department of Agriculture

CW sent via email:

4. WRD - Watermaster # 20 (include Division 33 form)
5. ODFW: (include Division 33 form)
6. DEQ: (include Division 33 form)