



# 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

OPAL CREEK ANCIENT FOREST CENTER  
ATTN: TOM ATIYEH  
1220 SW MORRISON SUITE 527  
PORTLAND, OR 97205

August 14, 2009

Reference: File S-87492

Dear Applicant:

### **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 requested the use of 1,000 gallons per day (GPD) from an unnamed stream, tributary to Opal Creek, for year-round domestic use for thirteen households.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from unnamed stream, tributary to Opal Creek, for domestic use is allowable under the Willamette Basin Program.
4. Surface water is not available in the amount requested for the month of June and August through October. However, by providing additional information you may request a limited permit for human consumption use (indoor use only: cooking, drinking, and sanitation). Please refer to the **Additional Information Opportunity** section below for details.
5. The standard allowable rate of water necessary for human consumption use for thirteen households is 0.02 cubic foot per second (CFS). If the application is approved, the rate allowed will be 0.02 CFS, further limited to 1,000 GPD.
6. The proposed use is located above the Santiam Scenic Waterway, as designated under ORS 390.826.

#### Summary of Allowable Water Use

**Because not all items above are favorable, the use of 0.02 CFS limited to 1,000 GPD of water from unnamed stream, tributary to Opal Creek for domestic use for thirteen households 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). 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, September 17, 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 28, 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](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 503-986-0815 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: Joel Plahn, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Joel Plahn  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

# APPLICATION FACT SHEET

Application File Number: S-87492

Applicant: OPAL CREEK ANCIENT FOREST CENTER

County: Marion

Watermaster: 16

Priority Date: June 30, 2009

Source: UNNAMED STREAM, TRIBUTARY TO OPAL CREEK

Use: DOMESTIC USE FOR THIRTEEN HOUSEHOLDS

Quantity: 1000.0 GALLONS PER DAY

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 8 LT N SANTIAM R MISC

Point of Diversion Location(s): NENE, SECTION 33, T8S, R5E, W.M.; 730 FEET SOUTH AND 1250 FEET WEST FROM NE CORNER, SECTION 33

Place of Use:

SW  $\frac{1}{4}$  SW  $\frac{1}{4}$   
SE  $\frac{1}{4}$  SW  $\frac{1}{4}$   
SECTION 28  
TOWNSHIP 8 SOUTH, RANGE 5 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 28, 2009**

**PUBLIC NOTICE DATE: Tuesday, August 18, 2009**

**30 DAY COMMENT DEADLINE DATE: Thursday, September 17, 2009**

# Mailing List for IR Copies

Application #S-87492

IR Date: August 14, 2009

## Original mailed to applicant:

OPAL CREEK ANCIENT FOREST CENTER, 1220 SW MORRISON SUITE 527, PORTLAND, OR 97205

## Copies sent to:

1. WRD - File # S-87492
2. WRD - Water Availability: Ken Stahr

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

3. WRD - Watermaster # 16 (include Division 33 form)
4. ODFW: (include Division 33 form)
5. DEQ: (include Division 33 form)

## IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. State Parks

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

US Department of Agriculture HC 73 P.O. Box 320 Mill City OR 97360

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

Perkins Coie ATTN: Lynne M. Paretchan 1120 NW Couch Street, Tenth Floor Portland, OR 97209

Caseworker: Joel Plahn

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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