

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number R-87233

Final Order

Notice of a Right to a Hearing

Pursuant to ORS 537.409 (8), the applicant has the right to a contested-case hearing on this Final Order, which will be conducted in accordance with ORS Chapter 183. If you want a hearing, you must submit a request in writing to the Department within 60 calendar days of the postmarked date of this Final Order. To be timely, a request must be received by the Department within 60 days of that date. If a request for a hearing is not received by the Department within the time allowed, you will have waived the right to a contested case hearing.

The request for a hearing should include your name, address, telephone number, a statement that you are requesting a hearing, and a detailed description of how the Final Order is in error or deficient and how it can be corrected.

If you request a hearing, the Department will provide you with information about the contested-case hearing process, including your rights and opportunity for appeal, before the hearing occurs.

This Final Order will remain the Department's final decision on your application if you do not request a hearing within the time allowed, or withdraw your request for a hearing, or request a hearing and then notify the Department that you will not appear, or fail to appear at a scheduled hearing.

If you do not request a hearing in the time allowed, the Department's Final Order may be appealed in the Oregon Court of Appeals (ORS 537.409 (7); ORS 183.482).

Application History

On July 17, 2008, John Stiner submitted an application to the Department for a water use permit. Pursuant to ORS 537.409, the Department provided public notice of the application in the Department's weekly public notice. A 60 day comment period followed.

Findings of Fact

The Department has not received adverse comments related to the possible approval of Application R-87233.

The Department received comments from Oregon Department of Fish and Wildlife (ODFW) related to the possible issuance of a permit. On

behalf of ODFW, Jeff Neal stated that the proposed reservoir would pose a significant detrimental impact to an existing fishery resource. Specifically, Mr. Neal stated the proposed dam would block steelhead passage and that conditions cannot be applied to mitigate the significant detrimental impact to fish passage that would be caused by the proposed dam.

The Department compared a calculation of natural streamflow minus the consumptive portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined that water is available December 1 through June 30 for further appropriation (at a 50 percent exceedance probability).

Conclusions of Law

Therefore, pursuant to ORS 537.409(6), the proposed use as described in Application R-87233 poses significant detrimental impacts to existing fishery resources.

Order

The application therefore is denied.

DATED September 3 , 2009



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Brook Geffen. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0808.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.