



# 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

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

J R SIMPLOT CO  
ATTN: TERRY T. UHLING  
PO BOX 27  
BOISE, ID 83707

February 29, 2008

Reference: File R-87015

Dear Mr. Uhling:

**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 storage of 888.0 acre feet (AF) of water from the Umatilla River, being 535.0 AF in Butter Creek Reservoir and 353.0 AF in Sparks Reservoir.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from the Umatilla River, a tributary of Columbia River, is allowable November 1 through May 31 under the Umatilla Basin Program.
4. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
5. Water is available for storage from January 1 through April 30.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

7. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

### **Summary of Initial Determinations**

**The storage of 888.0 AF of water from the Umatilla River, being 535.0 AF in Butter Creek Reservoir and 353.0 AF in Sparks Reservoir is allowable January 1 through April 14 of each year.**

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process. This phase is where public interest factors will be evaluated.

### **Additional Information Required:**

Additional information is required to process your application:

- 1) Each application must be complete and the Department must be able to evaluate it independently of other applications. In the applications you most recently submitted, your responses reference other files and include the following: "See application for Permit R-13872" and "See original application". Enclosed is a copy of your application wherein additional information is required; Needed information is highlighted.

**Please provide answers to the following items in the application: Questions 3, 4, 5, 7, 9, and a signature under item 11.**

- 2) Your Land Use Form lists the area for Butter Creek Reservoir (T3N, R28E, Section 5), but omits information for Sparks Reservoir (T3N, R28E, Section 34).

**Please provide a completed Land Use Form or a receipt signed and dated by a Umatilla County official for storage use on the property described as T3N, R28E, Section 34.**

- 3) Additional Exam Fees in the amount of \$200.00 are still owed.

**Please submit this information no later than March 23, 2008.** 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 more 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.

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.

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, March 14, 2008**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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 at each point of diversion. The permittee shall maintain the meter(s) in good working order. 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.
  - B. The permittee shall allow the watermaster access to the meter(s); provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
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 503-986-0808 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: Brook Geffen, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Brook Geffen  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87015  
WAB 7-221  
POU 7-221  
GW

# APPLICATION FACT SHEET

Application File Number: R-87015

Applicant: J R SIMPLOT CO

County: UMATILLA

Watermaster: 5

Priority Date: OCTOBER 19, 2007

Source: UMATILLA RIVER, A TRIBUTARY OF COLUMBIA RIVER

Use: STORAGE IN BUTTER CREEK RESERVOIR AND SPARKS RESERVOIR

QUANTITY: 888.0 ACRE FEET (AF), BEING 535.0 AF IN BUTTER CREEK RESERVOIR AND 353.0 AF IN SPARKS RESERVOIR

Basin Name & Number: Umatilla, #7

Stream Index Reference: Volume 3 UMATILLA R

Points of Diversion:

EAST RIVER PUMPING STATION: SESE, SECTION 27, T4N, R28E, W.M.; 150 FEET NORTH AND 4400 FEET EAST FROM SW CORNER, SECTION 27

WEST RIVER PUMPING STATION: NENW, SECTION 34, T4N, R28E, W.M.; 580 FEET SOUTH AND 1710 FEET EAST FROM NW CORNER, SECTION 34

Place of Use:

SE  $\frac{1}{4}$  SE  $\frac{1}{4}$   
SECTION 5

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

TOWNSHIP 3 NORTH, RANGE 28 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 14, 2008**

**PUBLIC NOTICE DATE: Tuesday, March 4, 2008**

**30 DAY COMMENT DEADLINE DATE: Thursday, April 3, 2008**

# Mailing List for IR Copies

Application #R-87015

IR Date: February 29, 2008

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**Original mailed to applicant:**

J R SIMPLOT CO, PO BOX 27, BOISE, ID 83707

**Copies sent to:**

1. WRD - File # R-87015
2. WRD - Water Availability: Ken Stahr

<b>Copies Mailed</b> By: _____ (SUPPORT STAFF) on: _____ (DATE)
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**IR, Map, and Fact Sheet Copies sent to:**

3. WRD - Regional Manager (not SCR): NC
4. WRD -Watermaster # 5 - Tony Justus (include Division 33 form)
5. ODFW: Bill Duke (include Division 33 form)
6. DEQ: Mitch Wolgamott (include Division 33 form)
7. Department of Agriculture
8. Columbia River Intertribal Fish Commission
9. US Fish & Wildlife
10. NW Power Planning Council
11. Jennifer Hudson and Carl Merkle, Confederated Tribes of the Umatilla Indian Reservation,  
PO Box 638, 73239 Confederated Way, Pendleton, OR 97801

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

1. Dale G. VanSchoiack, 7601 W Clearwater Ave, WA 99336
2. Bill Porfily

COPYSHT.IR

Caseworker: Brook Geffen