

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of Water Rights Application)
S-87217, Clackamas County)

**FINAL ORDER
APPROVING THE USE OF
STORED WATER**

Authority

ORS 537.147 establishes the process by which an application to use stored water exclusively may be submitted. OAR Chapter 690, Divisions 310 and 340 implement the statute, and provide the Department's procedures and criteria for evaluating applications to use stored water exclusively.

Findings of Fact

1. On May 13, 2009, Michael Thomas submitted an application for a water-use permit pursuant to ORS 537.147. The Department provided public notice of the application in the Department's weekly public notice on June 9, 2009. A 30-day comment period followed.
2. More than 30 days after the Department's public notice, written comments were received from Nancy Nicholson, and Ellis and Nora Gaskill. Ms. Nicholson, and Ellis and Nora Gaskill contended that:
 - a. The proposed use does not comply with the local acknowledged land-use plan.
 - b. The applicant is currently using the water for a commercial motorcycle track.
 - c. The applicant is diverting water from Rock Creek without a water right.
 - d. The application should be denied.
3. The application is for the use of stored water and does not propose to use water from Rock Creek.
4. On September 11, 2009, Steve Koper of Clackamas County Land Use and Planning Division contacted the Department and confirmed that the proposed use of water complies with the local acknowledged land-use plan. Mr. Koper stated "use of water for farm uses listed under ZDO subsection 407.04(J) and/or person recreation or accessory use in conjunction with the residence on the property would be allowed".
5. On September 14, 2009, the Department contacted the applicant requesting clarification of the proposed use.
6. On September 15, 2009, the Department received documentation from the applicant indicating the proposed use is irrigation and dust abatement, and does not include commercial use.
7. The Department has evaluated the application and the comments received, and finds that no public interest in ORS 537.170(8) would be affected adversely by the proposed use.

Conclusions of Law

Application S-87217 is consistent with the requirements of ORS 537.147, and OAR Chapter 690.

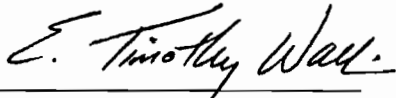
NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Now Therefore, it is Ordered:

Application S-87217 is approved, and Permit Number S-54610 is issued as limited by the conditions contained therein.

Dated at Salem, Oregon on OCTOBER 15 2009.



for Phillip C. Ward, Director
Water Resources Department

This order was produced by Joel Plahn. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0815 or Joel.M.Plahn@wrdd.state.or.us.

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, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.