

**Oregon Water Resources Department
Water Rights/Adjudications Division**

Water Rights Application
Number G-17292

Final Order

Appeal Rights

This is a Final Order in other than 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 either 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Application History

On December 7, 2009, Stephen Eraker submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 9, 2010. The protest period closed April 23, 2010 and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

Order

Application G-17292 is therefore approved as proposed by the Proposed Final Order. A permit consistent with the attached draft permit shall be issued only upon submission of documentary evidence that 18.0 mitigation credits, or suitable mitigation that meets the requirements of OAR 690-505-0610(2)-(5), within the Middle Deschutes Zone of Impact, have been obtained.

In addition, payment of outstanding permit recording fees in the amount of \$900.00 are required. Said fees are due and payable prior to the issuance of a permit, even if all mitigation obligations have been satisfied.

This Final Order is issued approving application G-17231 contingent upon the required mitigation being provided prior to permit issuance. This Final Order shall expire 5 years after issuance unless the required mitigation is provided under OAR 690-505-0620(2).

DATED May 20, 2010

E. Timothy Wall.

for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Joel Plahn. 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 503-986-0815.

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.

STATE OF OREGON

COUNTY OF DESCHUTES

DRAFT PERMIT TO APPROPRIATE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO:

STEPHEN ERAKER
PO BOX 1745 69550 NW 83RD ST
REDMOND OR 97756

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-17292

SOURCE OF WATER: WELL 1 (DESC 20) IN DESCHUTES RIVER BASIN

RATE: 0.125 CUBIC FOOT PER SECOND

DATE OF PRIORITY: DECEMBER 7, 2009

Use	Period
IRRIGATION	APRIL 1 - OCTOBER 31

Authorized Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
14 S	12 E	WM	35	NW NE	225 FEET SOUTH AND 730 FEET EAST FROM N1/4 CORNER, SECTION 35

Authorized Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
14 S	12 E	WM	35	NW NE	10.00

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

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 appropriation. The permittee shall maintain the meter 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; provided however, where any meter 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.

Ground Water Mitigation Conditions:

1. Mitigation Obligation: 18.0 acre-feet of mitigation water in the Middle Deschutes Zone of Impact.
2. Mitigation Source: mitigation credits, to be purchased or obtained through a mitigation project.
3. Mitigation water must be legally protected instream in the Middle Deschutes Zone of Impact for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.
4. The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.
5. If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee, the use of water under this right is subject to the maintenance and terms and conditions of a valid contract or satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department.
6. Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

Scenic Waterway Condition:

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right, or as those quantities may be reduced subsequently. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows, provided the required mitigation is maintained.

STANDARD CONDITIONS

1. Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.
2. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.
3. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
4. The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and

may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

5. Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.
6. Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.
7. This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best-practice technologies or conservation practices to achieve this end.
8. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged comprehensive land-use plan.
9. Completion of construction and complete application of the water to the use shall be made within five years of the date of permit issuance. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.
10. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued

DRAFT

for Phillip C. Ward, Director
Water Resources Department