



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

DAYSPRING PARTNERS LLC
15350 SW SEQUOIA PARKWAY SUITE 250
PORTLAND, OR 97224

July 30, 2010

Reference: File R-87630

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 proposed the storage of 75.0 acre feet (AF) of water in Metolius Lake from unnamed stream, and springs, tributaries of Rock Creek, for multiple purpose.

The reservoir will inundate 11.4 acres and have a dam height of 25.0 feet.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from unnamed stream, and springs, tributaries of Rock Creek, for "multiple purpose" is not allowable under the John Day Basin Program. However, the John Day Basin Program does allow storage for irrigation, domestic, livestock, ground water recharge, fire protection, fish life, wildlife, pollution abatement, and recreation.

Please amend the application to be consistent with one or more of these allowed uses by Thursday, September 2, 2010.

If the list of allowed uses does not meet your needs, you may consider pursuing a basin program exception under Oregon Revised Statute 536.295. If you choose this option, please submit a basin program exception request, with citation of the qualifying criteria (under the statute) for the exception, and required fee of \$500, by Thursday, September 2, 2010.

If you are unable to meet this time line, you may send a written request for an administrative hold for up to an additional 180 days.

4. Surface water is available during the period January 1 through June 30.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
6. The proposed use is located above the John Day Scenic Waterway, as designated under ORS 390.826.
7. Prior to issuance of a permit and construction of the project, final dam designs and specifications must be submitted to the Department and approved by the Department's dam-safety engineer.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 75.0 AF of water from unnamed stream, and springs, tributaries of Rock Creek, for multiple purpose is not allowable, and it appears unlikely that you will be issued a permit. However, if you amend the use or receive a basin program exception, the Department's findings will likely change. At this time, you must decide whether to proceed or to withdraw your application as described below.

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 13, 2010**. 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, a staff gage that measures the entire range and stage between full reservoir level and dead pool storage must be installed in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- B. The permittee shall maintain all required devices in good working order.

- C. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit.
 - E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, Oregon, gage 14048000, and discontinue diversion when the flows specified below are unmet. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet.

John Day Scenic Waterway	
Month	Minimum Bypass Flow (cubic feet per second)
January	500
February	1000
March 1- April 14	2000

- 3. 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.
- 4. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
- 5. Conditions may be added upon approval of dam designs and specifications.

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 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 503-986-0859 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: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87630
WAB 6-30620104
POU 6-30620104
GW

APPLICATION FACT SHEET

Application File Number: R-87630

Applicant: DAYSPRING PARTNERS LLC

County: Wheeler

Watermaster: 4

Priority Date: June 24, 2010

Source: UNNAMED STREAM, AND SPRINGS, TRIBUTARIES OF ROCK CREEK

Use: MULTIPLE PURPOSE

Quantity: 75.0 ACRE FEET

Basin Name & Number: John Day, #6

Stream Index Reference: Volume 1A ROCK CR

Point of Diversion or Well Location(s): NWE, SECTION 22, T13S, R24E, W.M.; 190 FEET SOUTH AND 1520 FEET WEST FROM NE CORNER, SECTION 22

Place of Use:

SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 15

NE $\frac{1}{4}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 22

TOWNSHIP 13 SOUTH, RANGE 24 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 13, 2010

PUBLIC NOTICE DATE: Tuesday, August 3, 2010

30 DAY COMMENT DEADLINE DATE: Thursday, September 2, 2010

Mailing List for IR Copies

Application #R-87630

IR Date: July 30, 2010

Original mailed to applicant:

DAYSPRING PARTNERS LLC, 15350 SW SEQUOIA PARKWAY SUITE 250, PORTLAND, OR 97224

Copies sent to:

1. WRD - File # R-87630
2. WRD - Water Availability: Ken Stahr

VIA EMIAL:

3. WRD - Watermaster # 4
4. ODFW:
5. DEQ:

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
8. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
9. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
10. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
PO Box 638, 73239 Confederated Way, Pendleton, OR 97801
11. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

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

1. Pagel, Martha

Schwabe, Williamson & Wyatt, 530 Center St. NE, STE 400, Salem OR 97301

2. Bruce, Steven, CWRE #439

Skookum Water Associates, Inc., P.O. Box 80174, Portland, OR 97280