



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

September 24, 2010

JENNIE BUHLER
4980 ENTERPRISE RD
DALLAS, OR 97338

Reference: File R-87647

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 to store 14.4 acre feet (AF) of water in Buhler Reservoir from runoff, tributary to Salt Creek, with a dam height of 17.0 feet, inundating 2.9 acres for multiple purpose use.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Under Oregon Administrative Rule (OAR) 690-502-0040(4), water may be appropriated for storage from November 1 through June 30.
4. The storage of water from runoff, tributary to Salt Creek, for "multiple purpose" is not classified under the Willamette Basin Program.

However, the storage of water for domestic, livestock, irrigation, municipal, industrial, agricultural, commercial, power, mining, recreation, fish life, wildlife, pollution abatement, wetland enhancement, and public instream uses are allowed under the Willamette Basin Program.

If you would like to amend the application to include any of the allowed uses listed above, please send your written request by Thursday, October 28, 2010.

5. Surface water is available during the period November 1 through June 30.
6. 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 Initial Determinations

Because not all items above are favorable, the appropriation of 14.4 AF of water for storage for multiple purpose in Buhler Reservoir from runoff, tributary to Salt Creek, is not allowable, and it appears unlikely that you will be issued a permit.

However, if the application is amended to specify one or more of the classified uses listed above, the Department will likely proceed with a Proposed Final Order recommending approval.

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.

At this time, you must decide whether to proceed or to withdraw your application as described below.

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, October 8, 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. 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.
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. Additional conditions may be added upon approval of dam plans 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 503-986-0816 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: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87647
WAB 2-73562
POU 2-73562
GW n/a

APPLICATION FACT SHEET

Application File Number: R-87647

Applicant: JENNIE BUHLER

County: Polk

Watermaster: 16

Priority Date: August 11, 2010

Source: RUNOFF, TRIBUTARY TO SALT CREEK

Use: STORAGE FOR MULTIPLE PURPOSE

Quantity: 14.4 ACRE FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 11A SALT CR

Dam Location: NWSE, SECTION 31, T6S, R5W, W.M.; 3040 FEET SOUTH AND 3520 FEET EAST FROM NW CORNER, SECTION 31

Place of Use:

NW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 31
TOWNSHIP 6 SOUTH, RANGE 5 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 8, 2010

PUBLIC NOTICE DATE: Tuesday, September 28, 2010

30 DAY COMMENT DEADLINE DATE: Thursday, October 28, 2010

Mailing List for IR Copies

Application #R-87647

IR Date : September 24, 2010

Original mailed to applicant:

JENNIE BUHLER
4980 ENTERPRISE RD
DALLAS, OR 97338

Copies sent to:

1. WRD - File # R-87647
2. WRD - Water Availability: Ken Stahr

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>

IR, Map, and Fact Sheet Copies sent VIA EMAIL to:

3. WRD - Watermaster # 16
4. ODFW: Tom Murtagh
5. DEQ: Nancy Gramlich

IR, Map, and Fact Sheet Copies sent to:

6. WRD - Dam Safety
7. Department of Agriculture

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

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

Caseworker: Kerry Kavanagh

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