

Oregon Water Resources Department
Water Rights/Adjudications Division

Water Rights Application
Number S-86623

Final Order

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. 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 June 20, 2006, Christine May and Carol Retzer submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on April 24, 2007. The protest period closed June 8, 2007.

On June 8, 2007, a timely protest was received from Peter Mohr on behalf of MJK, LLC, owner of land appurtenant to the Little Woahink Lake storage right and associated maintenance right as evidenced by Certificates 31076 and 31077. The protest asserted that this proposed allocation would injure those water rights.

Subsequently, the protestant sold the land appurtenant to Certificates 31076 and 31077 in 2010. Thus, the protestant no longer has any remaining interest in the land or those certificates.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe the quantity of water allowed. In order to minimize the potential impact on downstream water rights, including instream water rights, the Department is limiting the amount that can be diverted in any one day to 500 gallons.

The Proposed Final Order described the following quantity:

MAXIMUM RATE: 0.005 CUBIC FOOT PER SECOND

The quantity, as modified in the attached permit, is:

MAXIMUM RATE: 0.005 CUBIC FOOT PER SECOND, FURTHER LIMITED TO 500 GALLONS PER DAY

Order

Application S-86623 therefore is approved with the above modifications to the Proposed Final Order, and Permit S-54687 is issued as limited by the conditions set forth therein.

DATED December 16, 2010



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Kerry Kavanagh. 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 503-986-0816.

If you have questions about how to file a protest or a request for standing, please refer to the section in this Final Order entitled "Hearing and Appeal Rights". 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.