

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

Water Rights Application
Number S-86669

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 August 15, 2006, Daniel Hankins 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

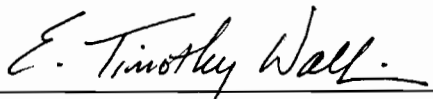
Order

Application S-86669 is therefore approved with these modifications to the Proposed Final Order. Upon payment of outstanding fees in the amount of \$400, a permit shall be issued authorizing the proposed water use.

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.

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.

DRAFT

This is not a permit.

DRAFT

STATE OF OREGON

COUNTY OF LANE

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

DANIEL HANKINS
6881 WALLSEY DRIVE
SAN DIEGO, CALIFORNIA 92119

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

APPLICATION FILE NUMBER: S-86669

SOURCE OF WATER: TWO UNNAMED STREAMS, TRIBUTARY TO LITTLE WOAHINK LAKE

PURPOSE OR USE: HUMAN CONSUMPTION (INDOOR USE ONLY: COOKING, DRINKING,
AND SANITATION) FOR ONE HOUSEHOLD

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

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: AUGUST 15, 2006

POINT OF DIVERSION LOCATION: NW ¼ SE ¼, SECTION 11, T19S, R12W, W.M.;
680 FEET SOUTH AND 970 FEET EAST FROM C1/4, SECTION 11

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW ¼ SE ¼
SECTION 11
TOWNSHIP 19 SOUTH, RANGE 12 WEST, W.M.

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 diversion. 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.

Water use under this permit may only occur when there is sufficient inflow to Little Woahink Lake from the two unnamed streams, or sufficient water is available to satisfy all prior rights, including rights for maintaining instream flows.

The permittee shall install, maintain, and operate fish screening and by-pass devices consistent with current Oregon Department of Fish and Wildlife (ODFW) standards. Fish screening is to prevent fish from entering the proposed diversion while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass devices are to be in place and functional, and approved in writing by ODFW prior to diversion of any water. The permittee may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary.

The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.

STANDARD CONDITIONS

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.

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.

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 practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows, except where those instream water rights allow for the use authorized herein.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after making beneficial use of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

Issued _____, 2010

DRAFT - THIS IS **NOT** A PERMIT

Phillip C. Ward, Director
Water Resources Department