



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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March 3, 1998

PATRICK DONALD AND LORI ANN CAMERON  
MARIAL LODGE  
P.O. BOX 1395  
GRANTS PASS, OREGON 97526

Reference: File S-83728

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 unfavorable 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 proposed use is not prohibited by law or rule.
2. The use of water from MARKS CREEK, A TRIBUTARY OF ROGUE RIVER for COMMERCIAL USE is a **classified use** under OAR 690-515, the Rogue Basin Program.
3. The use of water for Commercial Use includes, by definition, the irrigation or landscape maintenance of not more than ½ acre in area (OAR 690-300-010 6).
4. Water in the amount of 0.03 CUBIC FOOT PER SECOND (CFS) for COMMERCIAL USE is **not available** JUNE 1 THROUGH JANUARY 31 due to flows necessary to maintain the Rogue River Scenic Waterway.
5. Because water is not available for a full season, COMMERCIAL USE cannot be allowed. However, by providing additional information, you may pursue a limited permit.

### Summary of Allowable Water Use

**Because item #4 above is unfavorable, the use of 0.03 CFS of water from MARKS CREEK, A TRIBUTARY OF THE ROGUE RIVER, for COMMERCIAL USE is not allowable, and it appears unlikely that you will be issued a permit. However, by providing additional information as described below, you may be able to pursue a limited permit. At this time, you must decide whether to proceed or to withdraw your application as described below.**

The applicant may want to investigate the possibility of purchasing stored water for Commercial Use to mitigate for scenic waterway flows during the months when water is not available.

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 \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Tuesday, March 17, 1998**. 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.

#### Option One: pursue a limited period of use

By supplying the Department with additional information concerning the proposed use, you may be able to use water during the period April 1 through May 31. If you do not either: withdraw your application; provide the additional information as described below; or provide the information described in option 2 below, the Department will propose to reject your application. This information should be submitted within 30 days to avoid any further delays in the processing of your application.

If you would like to be able to use water when it available, you must supply the Department with two items.

- Item #1      Supply information that would indicate that you can make beneficial use of the water during the times it is available for use by growing crops that can survive the shortened season. Identify the crop(s).

or Identify another source of water to use during the period when water use is not allowed.

Item #2 Acknowledge water use may only occur, under the terms of the permit (if one is issued), during the allowed period of use.

Option 2: pursue human consumption use

Due to the water necessary to maintain the scenic water way flows, water is not available in sufficient quantities to support the proposed use. However, the applicant may be able to pursue a permit limited to human consumption use only during the period when water is not otherwise available. By rule the use of water for human consumption may be allowed when water is not available (as listed in number 4 above) if the information requested below is provided.

Item #1 Identify all potential alternate source(s) of water, if any, and describe why water cannot be reasonably obtained from such sources.

Item #2 Evidence that denial of the application will result in loss of reasonable expectations for use of the property.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
  - A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
  - B. 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. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.
2. You may be required to install fish screens at the diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

3. The tentative priority date for this application is December 19, 1997.

**WARNING: 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 public comments 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.**

Information obtained from the Department of Environmental Quality (DEQ) indicates that the source of water identified in your application is "Water Quality Limited". That means that there are water quality concerns. DEQ will be looking at information from your application to see if additional conditions or restrictions are needed to protect the water quality situation. One possible outcome is that the Water Resources Department will propose in the proposed final order that your application be denied. You are encouraged to contact DEQ, (503) 229-6691, to discuss the specifics of your application. Often, this information exchange can allow the water use to occur and at the same time keep the water quality situation from worsening.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at (800) 624-3199 or (503) 378-8455 extension 499. Feel free to call me at (800) 624-3199 or (503) 378-8455 extension 331 if you have any questions regarding the contents of this letter. Please have your application number available if you call.

Sincerely,



Laura K. Snedaker  
Senior Water Rights Examiner

cc: Regional Manager, Watermaster District 14, Water Availability Section  
enclosures: Flow Chart of Water Right Process  
Stop Processing Form

wab 15-0102  
pou 15-0102