



Oregon

John A. Kitzhaber, MD, 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

GARY MARTIN
1801 MARCY LOOP
GRANTS PASS, OR 97527

September 9, 2011

Reference: File R-87742

Dear Mr. Martin:

**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 15.3 acre-feet (AF) of water from Madams Creek, tributary to Rogue River, in Martin Reservoir, for year-round storage for irrigation use. The dam height is 11.6 feet and, when full, the reservoir will inundate 3.11 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from Madams Creek, a tributary of Rogue River is allowable under the Rogue Basin Program. According to Oregon Administrative Rule (OAR) 690-515-0040(1)(a) irrigation is a classified use.
4. The proposed use is located above the Rogue Scenic Waterway designated under Oregon Revised Statute 390.826.
5. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
6. Surface water is available during the period December through May.
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.
8. A secondary permit is required before water may be diverted for out of reservoir uses, including irrigation.
9. Under OAR 690-515-0040(2)(a), all applications for appropriation of water for storage in structures impounding more than 3,000,000 gallons of water shall be reviewed by the Water Policy Review Board (Commission) prior to approval.

10. Under OAR 690-515-0040(1)(a), the Rogue Basin Program, the use of water for irrigation is allowed. However, the Department must also consider whether the applicant has given “cognizance to the multi-purpose concept” regarding the proposed appropriation of water for storage (OAR 690-515-0040(1)(c)). Therefore, the storage of water for a single use is not allowable under the Rogue Basin Program.

Please refer to the **Additional Information Opportunity** section below for details.

Summary of Allowable Water Use

Because not all items above are favorable, the storage of 15.3 AF of water from Madams Creek, tributary to Rogue River, for year-round storage for irrigation is not allowable, and it appears unlikely that you will be issued a permit unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order.

Additional Information Opportunity:

Although it is unlikely that a permit will be issued based on current information in the application file, the Department’s findings may change if you provide the following information prior to issuance of the Proposed Final Order. Please provide the following:

- Documentation that you have given “cognizance to the multi-purpose concept” in regard to the proposed use.
- A letter to the Department indicating your request for the Commission to review this application for appropriation of stored water in excess of 3,000,000 gallons in the Rogue Basin. This is not a request for Basin Plan Exception, and no additional fee is required for the additionally required review if you choose to proceed.

Please submit this information to the Department in writing no later than October 9, 2011. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application..

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, September 23, 2011**. 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, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water diverted, and may require the permittee to report water storage 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. 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.
3. Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at Rogue River near Agness, OR, gage 14372300, and discontinue diversion when the flows specified below are unmet at the gage. 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 at the gage.

Rogue River Scenic Waterway	
Month	Minimum Flow (cfs)
December	3500
January	3500
February	3500
March	3500
April	3500
May	3000

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 503-986-0853 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: Michele McAleer, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in black ink that reads "Michele R. McAleer". The signature is written in a cursive style.

Michele McAleer
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87742
WAB 15-31531002
POU 15-31531002

APPLICATION FACT SHEET

Application File Number: R-87742

Applicant: GARY MARTIN

County: JOSEPHINE

Watermaster: 14

Priority Date: AUGUST 1, 2011

Source: MADAMS CREEK, A TRIBUTARY OF ROGUE RIVER

Use: STORAGE FOR IRRIGATION

Quantity: 15.3 ACRE FEET

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 4A MADAMS CR & MISC

Point of Diversion:

NWNE, SECTION 23, T36S, R7W, W.M.; 1150 FEET SOUTH AND 523 FEET EAST
FROM N1/4 CORNER, SECTION 23

Place of Use:

NW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 23
TOWNSHIP 36 SOUTH, RANGE 7 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 23, 2011

PUBLIC NOTICE DATE: Tuesday, September 13, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, October 13, 2011

Mailing List for IR Copies

Application #R-87742

IR Date: September 9, 2011

Original mailed to applicant:

GARY MARTIN , 1801 MARCY LOOP, GRANTS PASS, OR 97527

Copies sent to:

1. WRD - File # R-87742
2. WRD - Water Availability: Ken Stahr
3. WRD - Dam Safety

IR, Map, and Fact Sheet Copies sent to:

4. WRD - Regional Manager: SW
5. Department of Agriculture
6. Oregon Parks

IR, Map, and Fact Sheet Copies sent VIA E-MAIL to:

7. WRD - Watermaster # 14
8. ODFW: Brent Crowe
9. DEQ: Heather Tugaw

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

10. Gary Martin, Successor Co-trustee, Martin Family Trust, 1801 Marcy Loop, Grants Pass, OR 97527
11. Diana Bossieux, Successor Co-trustee, Martin Family Trust, 2083 Marcy Loop, Grants Pass, OR 97527

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

12. Gary D. Wicks, CWRE #194, Wicks Engineering & Surveying, 311 N.E. "D" Street, Grants Pass, OR 97526

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