



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

CLATIE B SMITH
C/O ISENHART EVERT - ONA RANCH INC
97065 LANGLOIS MOUNTAIN RD
LANGLOIS, OR 97450

October 7, 2011

Reference: File S-87757

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 the use of 0.01 cubic foot per second (CFS) of water from an unnamed spring, tributary to North Fork Floras Creek, for year-round domestic use expanded for one household.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from an unnamed spring, tributary to North Fork Floras Creek, for domestic use expanded for one household is allowable under the South Coast Basin Program.
4. Surface water is not available at any time of year.
5. Due to requirements for existing water rights and/or minimum flows in a scenic waterway, water is not available in sufficient quantities to support the proposed use. However, human consumption of water (indoor use only: cooking, drinking and sanitation, limited to 500 gallons per day per household) from the proposed source may be considered a high public interest use if there is no reasonable alternative. Because you have provided evidence that this is the case, we will work with the Oregon Department of Fish and Wildlife to attempt to determine conditions which will protect instream values during the months when instream flow requirements are not met. These conditions may include mitigation measures to offset the impact of the requested use.
6. The application is subject to Section 4(d) of the Endangered Species Act.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.01 CFS of water from an unnamed spring, tributary to North Fork Floras Creek, for year-round domestic use expanded for one household is not allowable, and it appears unlikely that you will be issued a permit.

However, because you have provided evidence that there is no reasonable alternative, we will work with the Oregon Department of Fish and Wildlife to attempt to determine conditions which will protect instream values during months when instream flow requirements are not met.

At the next stage of the application process, the Department may find that the use of 0.005 CFS of water, further limited to 500 gallons per day, from an unnamed spring, tributary to North Fork Floras Creek, for human consumption use (indoor use only: cooking, drinking and sanitation) is in the public interest and allowable during the full season requested.

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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, October 21, 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 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 diverted each month, and shall submit a report which includes the recorded report 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.
- 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.

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

WAB 17-80445
POU 17-80445
GW n/a

APPLICATION FACT SHEET

Application File Number: S-87757

Applicant: CLATIE B SMITH c/o ISENHART EVERT-ONA RANCH INC

County: Curry

Watermaster: 19

Priority Date: September 20, 2011

Source: AN UNNAMED SPRING, TRIBUTARY TO NORTH FORK FLORAS CREEK

Use: DOMESTIC USE EXPANDED FOR ONE HOUSEHOLD

Quantity: 0.01 CUBIC FOOT PER SECOND

Basin Name & Number: South Coast, #17

Stream Index Reference: Volume 3 FLORAS CR & MISC

Point of Diversion Location: SWSW, SECTION 26, T30S, R14W, W.M.; 4213 FEET SOUTH AND 3989 FEET WEST FROM NE CORNER, SECTION 26

Place of Use:

SE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 26
TOWNSHIP 30 SOUTH, RANGE 14 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 21, 2011

PUBLIC NOTICE DATE: Tuesday, October 11, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, November 10, 2011

Mailing List for IR Copies

Application #S-87757

IR Date: October 7, 2011

Original mailed to applicant:

CLATIE B SMITH
C/O ISENHART EVERT - ONA RANCH INC
97065 LANGLOIS MOUNTAIN RD
LANGLOIS, OR 97450

Copies sent to:

1. WRD - File # S-87757
2. WRD - Water Availability: Ken Stahr

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

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

3. WRD - Watermaster # 19
4. ODFW:
5. DEQ:

IR, Map, and Fact Sheet Copies sent to:

6. WRD - Regional Manager: SW
7. Department of Agriculture
8. NOAA Fisheries, Kim Kratz
Director, Oregon State Habitat Office
National Marine Fisheries Service, 1201 NE Lloyd Blvd, Portland, OR 97232
9. USFWS Coastal Oregon Field Office, Attn: Laura Todd, Field Supervisor,
2127 SE Marine Science Drive, Newport, Oregon 97365-5258

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

10. Earnest A. Bussman, P.O. Box 282, Sixes, OR 97476

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

11. Tom Hoshall, CWRE #441,
Stuntzner Engineering & Forestry, LLC, 705 S 4th Street, PO Box 118, Coos Bay, OR 97420

Caseworker: Kerry Kavanagh

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