



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

GERALD OR HEATHER FREEMAN
2680 N OAK GROVE RD
RICKREALL, OR 97371

March 30, 2012

Reference: File S-87787

Dear Applicants:

**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 an 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 25.3 acre feet (AF) of stored water in Oak Grove Reservoir (Freeman Reservoir), to be constructed under Application R-87786, a tributary of Goodwin Branch, for irrigation of 40.2 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Oak Grove Reservoir (Freeman Reservoir), a tributary of Goodwin Branch, for irrigation is allowable under the Willamette Basin Program.
4. Stored water in the amount of 25.3 AF is determined to be available for further appropriation, contingent upon approval of Application R-87786.
5. The proposed diversion falls within a high-priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds
6. The application is subject to Section 4(d) of the Endangered Species Act.
7. A portion of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Permit S-54169 (Application S-86112). Because Permit S-54169 authorizes the use of stored water at a duty that is less than the maximum standard duty of 2.5 acre-feet per acre, the proposed use of stored water under this application may be used for primary irrigation to make up a deficiency in duty. Thus, the use of 25.3 AF of stored water from Oak Grove Reservoir (Freeman Reservoir), may be allowed for primary irrigation of 40.2 acres.
8. A portion of the area proposed to be irrigated under this application is currently covered by an existing reservoir water right evidenced by Permit R-14142 (Application R-86111), which conflicts with your application. If the reservoir authorized under Permit R-14142, "Farm Fresh Reservoir", was actually constructed in the location depicted on the

application map for Permit R-14142 (see attached), you will need to submit a revised map for this application. Please keep in mind that you may not enlarge the proposed place of use under this application; however, if Farm Fresh Reservoir does indeed exist, you may consider modifying the footprint of the proposed irrigated area as long as the total acreage does not increase. Please provide information regarding the status of Farm Fresh Reservoir and how you would like to proceed no later than **Thursday, May 3, 2012**. 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.

Summary of Initial Determinations

The use of 25.3 AF of water from Oak Grove Reservoir (Freeman Reservoir), to be constructed under Application R-87786, a tributary of Goodwin Branch, for irrigation of 40.2 acres is allowable during the full period requested, being March 1 through October 31, contingent upon the approval of Application R-87786 and resolution of the conflict with "Farm Fresh Reservoir", constructed under Permit R-14142.

Because of these favorable determinations, the Department can now move your application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

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.

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.

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, April 13, 2012**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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 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.
 - 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

S-87787
WAB 2-stored water
POU 2-stored water
GWn/a

APPLICATION FACT SHEET

Application File Number: S-87787

Applicant: GERALD OR HEATHER FREEMAN

County: Polk

Watermaster: 16

Priority Date: March 8, 2012

Source: OAK GROVE RESERVOIR (FREEMAN RESERVOIR), A TRIBUTARY OF GOODWIN BRANCH

Use: IRRIGATION OF 40.2 ACRES

Quantity: 25.3 ACRE FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 10 MUD CR SLOUGH & MISC

Point of Diversion: SWSW, SECTION 10, T7S, R4W, W.M.; 295 FEET NORTH AND 600 FEET EAST FROM SW CORNER, SECTION 10

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 2.8 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 26.5 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 10.9 ACRES
SECTION 10
TOWNSHIP 7 SOUTH, RANGE 4 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 13, 2012

PUBLIC NOTICE DATE: Tuesday, April 3, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, May 3, 2012

Mailing List for IR Copies

Application #S-87787

IR Date: March 30, 2012

Original mailed to applicant:

GERALD OR HEATHER FREEMAN
2680 N OAK GROVE RD
RICKREALL, OR 97371

Copies sent to:

1. WRD - File # S-87787
2. WRD - Water Availability: Ken Stahr

VIA EMAIL

3. WRD - Watermaster # 16
4. ODFW:
5. DEQ:

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture

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

7. Flynn D. Case Living Trust, Flynn D Case, trustee, PO Box 5639, Salem, OR 97304
8. Central School District 13J, 1610 Monmouth Street, Independence, OR 97351
9. School District 19J (13J), 1610 Monmouth Street, Independence, OR 97351
10. Oak Grove Grange #198, et al, Tom Teichrow, c/o Jency Rosasco,
22705 Business Highway 18-B, Willamina, OR 97369
11. Oak Grove Grange Citizens/Community Church, c/o Joanne Kowitz,
4525 North Oak Grove Road, Rickreall, OR 97371

Affected District (include "Notice of Initial Review--Affected District")

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

12. Corbey Boatwright, CWRE #208
Boatwright Engineering Inc., 2613 12th Street SE, Salem OR 97302
13. Kim Kratz, Director, Oregon State Habitat Office
National Marine Fisheries Service, 1201 NE Lloyd Blvd, Portland OR 97232
14. Paul Henson, US Fish & Wildlife Service,
Oregon Fish & Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266

Caseworker: Kerry Kavanagh

COPYSH.T.IR

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