

**Oregon Water Resources Department
Water Rights Services Division**

Water Rights Application
Number S-87499

Final Order

Appeal Rights

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 September 11, 2009, Paula Rini, Kerry Krueger, Jerene F. Adler, Mason D. Williams, Duane Faulhaber, and U.S.D.A. Forest Service, Middle Fork Ranger District, submitted an application to the Department for a water use permit.

The Department issued a Proposed Final Order on December 27, 2011. The protest period closed February 10, 2012, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest.

Order

Application S-87499 is therefore approved as proposed by the Proposed Final Order. **Upon payment of outstanding fees in the amount of \$150, 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 March 29, 2012

E. Timothy Wallin

E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Jeana Eastman. 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 503-986-0859.

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

PAULA RINI
2173 ESSEX LANE
EUGENE, OR 97403

KERRY KRUEGER
PO BOX 789
OAKRIDGE, OR 97463

JERENE F. ADLER
2058 OLIVE STREET
EUGENE, OR 97405-2836

DUANE FAULHABER
2190 LAW LANE
EUGENE, OR 97401

MASON D. WILLIAMS
280 WEST 26TH STREET
EUGENE, OR 97405

U.S.D.A. FOREST SERVICE
MIDDLE FORK RANGER DISTRICT
46375 HIGHWAY 58
WESTFIR, OR 97492

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

APPLICATION FILE NUMBER: S-87499

SOURCE OF WATER: SALT CREEK, A TRIBUTARY OF MIDDLE FORK WILLAMETTE RIVER

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

MAXIMUM RATE: 0.01 CUBIC FOOT PER SECOND, FURTHER LIMITED TO 500 GALLONS PER DAY, PER HOUSEHOLD

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: SEPTEMBER 11, 2009

POINT OF DIVERSION (POD) LOCATIONS:

POD #1 (LOT 9): NWSW, SECTION 23, T21S, R3E, W.M.; 850 FEET SOUTH AND 180 FEET EAST FROM W1/4 CORNER, SECTION 23

POD #2 (LOT 10): NWSW, SECTION 23, T21S, R3E, W.M.; 900 FEET SOUTH AND 360 FEET EAST FROM W1/4 CORNER, SECTION 23

POD #3 (LOT 11): NWSW, SECTION 23, T21S, R3E, W.M.; 960 FEET SOUTH AND 555 FEET EAST FROM W1/4 CORNER, SECTION 23

POD #4 (LOT 13): NWSW, SECTION 23, T21S, R3E, W.M.; 970 FEET SOUTH AND 725 FEET EAST FROM W1/4 CORNER, SECTION 23

POD #5 (LOT 14): NWSW, SECTION 23, T21S, R3E, W.M.; 945 FEET SOUTH AND 810 FEET EAST FROM W1/4 CORNER, SECTION 23

THE PLACE OF USE IS LOCATED AS FOLLOWS:

LOTS	QQ	SEC	TWP	RNG	MER
9, 10, 11, 13, 14	NWSW	23	21 S	3 E	WM

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.

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

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.

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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

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

DRAFT - THIS IS **NOT** A PERMIT

E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director