



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

April 27, 2012

PETER DINSDALE
BLUE HERON FARM
PO BOX 357
INDEPENDENCE, OR 97351

Reference: File R-87793

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 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 storage of 145.0 acre feet (AF) of water for irrigation, being 80.0 AF in Alan Reservoir and 65.0 AF in Ben Reservoir, from runoff, a tributary of South Fork Ash Creek, and South Fork Ash Creek, a tributary of Ash Creek. Alan Reservoir will have a dam height of 9.9 feet and inundate 6.5 acres, and Ben Reservoir will have a dam height of 9.9 feet and inundate 6.0 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from runoff, a tributary of South Fork Ash Creek, and South Fork Ash Creek, a tributary of Ash Creek, is allowable November 1 through June 30 under the Willamette Basin Program.
4. Surface water is available year-round.
5. The application is subject to Section 4(d) of the Endangered Species Act.

Summary of Initial Determinations

The storage of 145.0 AF of water for irrigation, being 80.0 AF in Alan Reservoir and 65.0 AF in Ben Reservoir, from runoff, a tributary of South Fork Ash Creek, and South Fork Ash Creek, a tributary of Ash Creek, is allowable November 1 through June 30.

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, May 11, 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 keep a complete record of the amount of water stored each month, and shall submit a report which includes the recorded report water-storage 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 or measuring device; provided however, where any meter or measuring device 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. If the volume of the completed reservoir is 9.2 acre feet or more and a dam is used to impound the water, the height of the dam shall be less than 10.0 feet.
3. The permittee shall pass all live flow outside the storage season described above.
4. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.

5. This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.
6. 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.
7. 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 503-986-0859 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: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

APPLICATION FACT SHEET

Application File Number: R-87793

Applicant: PETER DINSDALE AND BLUE HERON FARM

County: Polk

Watermaster: 16

Priority Date: April 5, 2012

Source: RUNOFF, A TRIBUTARY OF SOUTH FORK ASH CREEK, AND SOUTH FORK ASH CREEK, A TRIBUTARY OF ASH CREEK

Use: STORAGE FOR IRRIGATION

Quantity: 145.0 ACRE FEET (AF), BEING 80.0 AF IN ALAN RESERVOIR AND 65.0 AF IN BEN RESERVOIR

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 10 ASH CR & MISC

Point of Diversion (POD) and Dam Location(s):

POD: SWNE, SECTION 31, T8S, R4W, W.M.; 720 FEET NORTH AND 900 FEET EAST FROM C1/4 CORNER, SECTION 31

ALAN RESERVOIR: SENW, SECTION 31, T8S, R4W, W.M.; 225 FEET NORTH AND 1130 FEET WEST FROM C1/4 CORNER, SECTION 31

BEN RESERVOIR: SENE, SECTION 31, T8S, R4W, W.M.; 670 FEET NORTH AND 1330 FEET EAST FROM SW CORNER, SECTION 31

Place of Use:

SE $\frac{1}{4}$ NE $\frac{1}{4}$
SE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 31
TOWNSHIP 8 SOUTH, RANGE 4 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 11, 2012

PUBLIC NOTICE DATE: Tuesday, May 1, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, May 31, 2012

Mailing List for IR Copies

Application #R-87793

IR Date: April 27, 2012

Original mailed to applicant:

PETER DINSDALE BLUE HERON FARM, PO BOX 357, INDEPENDENCE, OR 97351

Copies sent to:

1. WRD - File # R-87793
2. WRD - Water Availability: Ken Stahr

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

VIA EMAIL

3. WRD -Watermaster # 16 (include Division 33 form)
4. ODFW: (include Division 33 form)
5. DEQ: (include Division 33 form)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Kim Kratz, Director, Oregon State Habitat Office, National Marine Fisheries Service
1201 NE Lloyd Blvd, Portland, OR 97232
8. Paul Henson, State Supervisor, USFWS,
Oregon Fish & Wildlife Office, 2600 S.E. 98th Ave, Ste 100, Portland, OR 97266