



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

CERTIFIED MAIL
Return Receipt Requested

May 11, 2012

ROBERT L AND LEANNA R MCKEE
24903 SW PERRYDALE RD
AMITY, OR 97101

Reference: File G-17474

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 storage of 6.4 acre feet (AF) of ground water in Upper Reservoir, to be constructed under Application R-87735, from drain tiles in Salt Creek Basin for irrigation March 1 through October 31. Application R-87735 proposed the storage of 57.7 AF of water from two unnamed springs and runoff, tributary to Salt Creek, in the Upper Reservoir. The dam height is 19.0 feet and the area inundated is 8.4 acres. [Stored ground water](#) will then be appropriated from the Upper Reservoir to irrigate 103.4 acres March 1 through October 31.

We understand that the source is described as a group of drain tiles that have an outlet down slope from the reservoir site and flow into an unnamed drainage that is tributary to Salt Creek. Because the application materials did not provide a specific location of the interception of the drain tiles, the Department used the location at the base of the Upper Reservoir.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from drain tiles in Salt Creek Basin for storage of ground water for irrigation use is allowable under the Willamette Basin Program.

4. The Department has determined, based upon Oregon Administrative Rule (OAR) 690-009, that the drain tiles will produce ground water from unconfined alluvium within a quarter mile of the banks of surface water and is therefore presumed to be hydraulically connected to surface water (OAR 690-502-0240), being Salt Creek. Such hydraulically connected ground water is classified the same as the surface source under OAR 690-502-0240. The appropriation of water from drain tiles in Salt Creek Basin for storage for irrigation use **is not allowed** May 1 through October 31 under OAR 690-502-0150(4)(a), the Willamette Basin Program.

5. Ground water will likely be available within the capacity of the resource, and the proposed use of ground water will avoid injury to existing ground water rights.

The Department has determined, based upon OAR 690-009, that the proposed ground water use will have the potential for substantial interference with Salt Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available during the period June 1 through October 31.

6. The application is subject to Section 4(d) of the Endangered Species Act.

7. The application materials indicate that you own all the lands from which water is to be diverted, conveyed, and used; however, the application also included the name and address of Mary A (Freeman) Clow as an affected landowner. Please refer to the **Additional Information Required** section below for specific information.

8. Additional exam fees are required prior to issuance of any Proposed Final Order that may recommend approval. Please refer to the **Additional Information Required** section below for specific information.

9. The application requested irrigation of 103.4 acres; however, the map provided with the application shows irrigation of 103.0 acres. The Department will proceed with the acreage shown on the map unless a revised map is submitted by Thursday, June 14, 2012.

Summary of Initial Determinations

The storage of 6.4 AF of ground water from drain tiles in Salt Creek Basin for irrigation of 103.0 acres is allowable November 1 through April 30. Stored water may be diverted from the reservoir for irrigation March 1 through October 31, contingent upon approval of Application R-87735.

Additional Information Required:

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following items:

- Please clarify whether Mary A (Freeman) Clow owns all or part of the lands where water is to be diverted, conveyed, and used.

- Additional exam fees are required prior to issuance of any Proposed Final Order that may recommend approval. The total exam fee is \$1350, and the Department has received a total of \$1175; please provide the additional fee of \$175.

Category	Fee
Base	\$1000
store gw - 7 AF @ \$25 each	\$175
appropriate gw - 7 AF @ \$25 each	\$175
TOTAL EXAM FEES:	\$1350
EXAM FEES PAID:	\$1175

Please submit this information no later than June 14, 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.

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.

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to **#4 and #5** above, your application will likely be limited accordingly.

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, May 25, 2012**. 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 appropriation. 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 diverted / stored each month, and shall submit a report which includes the recorded report water-use / 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. All drain tiles that are used as a source of water under this permit shall be tied to a common diversion point which shall be equipped with a suitable measuring device as approved by the Director.
3. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, or the provision of other means to evacuate water when determined necessary by the Water Resources Director to satisfy prior downstream rights.
4. Surface water shall not be appropriated to fill or maintain the reservoir without a water right permitting the diversion and use of such surface water.
5. The permittee is required to pass all surface water flow for which a water-use authorization does not exist.
6. The permittee is required to pass all surface water for which a storage right does not exist. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that surface-water flow is not impeded. 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.
7. The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of one-eightieth of one cubic foot per second and 2.5 acre foot for each acre irrigated during the irrigation season of each year.

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

G-17474
WAB 2-73562
POU 2-73562
GW

APPLICATION FACT SHEET

Application File Number: G-17474

Applicant: ROBERT L AND LEANNA R MCKEE

County: Yamhill

Watermaster: 16

Priority Date: July 6, 2011

Source: DRAIN TILES IN SALT CREEK BASIN

Use: STORAGE IN UPPER RESERVOIR, TO BE CONSTRUCTED UNDER APPLICATION R-87735, FOR IRRIGATION; IRRIGATION OF 103.4 ACRES

Storage Facility: UPPER RESERVOIR

Period of Use: STORAGE - NOVEMBER 1 THROUGH APRIL 30
IRRIGATION FROM RESERVOIR - MARCH 1 THROUGH OCTOBER 31

Volume: 6.4 ACRE FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 11A SALT CR

Point of Appropriation Location: NWSE, SECTION 31, T5S, R4W, W.M.; 350 FEET SOUTH AND 400 FEET EAST FROM C1/4 CORNER, SECTION 31

Place of Use:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 13.4 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.3 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 7.3 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.6 ACRE
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 15.6 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 12.3 ACRES AND STORAGE
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 26.0 ACRES

SECTION 31

TOWNSHIP 5 SOUTH, RANGE 4 WEST, W.M.

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 5.6 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 18.9 ACRES

SECTION 6

TOWNSHIP 6 SOUTH, RANGE 4 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 25, 2012

PUBLIC NOTICE DATE: Tuesday, May 15, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, June 14, 2012

Mailing List for IR Copies

Application #G-17474

IR Date : May 11, 2012

Original mailed to applicant:

ROBERT L AND LEANNA R MCKEE
24903 SW PERRYDALE RD
AMITY, OR 97101

Copies sent to:

1. WRD - File # G-17474
2. WRD - Water Availability: Ken Stahr

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

SENT VIA EMAIL

WRD - Watermaster # 16
ODFW:
DEQ:

IR, Map, and Fact Sheet Copies sent to:

3. Department of Agriculture
4. Kim Kratz, Director, Oregon State Habitat Office, National Marine Fisheries Service,
1201 NE Lloyd Blvd, Portland OR 97232
5. Paul Hensen, State Supervisor, US Fish & Wildlife Service,
Oregon Fish & Wildlife Office, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266

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

6. Mary A (Freeman) Clow, 21200 SW McKee Rd, Amity, OR 97101

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

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

7. Hardy, Leland, CWRE #449, 690 Loring DR NW, Salem OR 97304

Caseworker: Kerry Kavanagh

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