



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

RANDY ROTH
28600 JONES RD
FOSTER, OR 97345

July 6, 2012

Reference: File R-87815

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 requested the storage of 4.62 acre feet (AF), being 2.59 AF in Big Pond, 0.65 AF in Catfish Pond, 0.44 AF in Trout Pond, 0.38 AF in Dike Pond, and 0.56 AF in Orchard Pond, of water from an unnamed stream, tributary of Gedney Creek, for multiple purpose use. Big Pond will inundate 0.4 acre and have a dam height of 24.0 feet. Catfish Pond will inundate 0.2 acre and have a dam height of 14.0 feet. Trout Pond will inundate 0.15 acre and have a dam height of 16.0 feet. Dike Pond will inundate 0.15 acre and have a dam height of 16.0 feet. Orchard Pond will inundate 0.05 acre and have a dam height of 5.0 feet.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Under Oregon Administrative Rule (OAR) 690-502-0040(4), water may be appropriated for storage from November 1 through June 30.
4. The storage of water from an unnamed stream, tributary of Gedney Creek, for "multiple purpose" is not allowable under the Willamette Basin Program. However, the Willamette Basin Program does allow storage for domestic, livestock, irrigation, municipal, industrial, agricultural, commercial, power, mining, recreation, fish life, wildlife, pollution abatement, wetland enhancement, and public instream uses.

Please amend the application to be consistent with one or more of these allowed uses by Thursday, August 9, 2012.

If the list of allowed uses does not meet your needs, you may consider pursuing a basin program exception under Oregon Revised Statute 536.295. If you choose this option, please submit a basin program exception request, with citation of the qualifying criteria (under the statute) for the exception, and required fee of \$500, by Thursday, August 9, 2012.

If you are unable to meet this time line, you may send a written request for an administrative hold for up to an additional 180 days.

5. Surface water is available during the period October 1 through July 31.
6. The application is subject to Section 4(d) of the Endangered Species Act.

Summary of Initial Determinations

Because not all items above are favorable, the storage of 4.62 AF, being 2.59 AF in Big Pond, 0.65 AF in Catfish Pond, 0.44 AF in Trout Pond, 0.38 AF in Dike Pond, and 0.56 AF in Orchard Pond, from an unnamed stream, a tributary of Gedney Creek, for “multiple purpose”, is not allowable, and it appears unlikely that you will be issued a permit.

However, if the application is amended to specify one or more of the classified uses listed above, the Department will likely proceed with a Proposed Final Order recommending approval for the limited storage season of November 1 through June 30.

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, July 20, 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. The Director may require the permittee to install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. If the Director notifies the permittee to install a totalizing flow meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device.

- B. 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.
- 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

R-87815
WAB 2-159
POU 2-159
GW n/a

APPLICATION FACT SHEET

Application File Number: R-87815

Applicant: RANDY ROTH

County: Linn

Watermaster: 2

Priority Date: May 23, 2012

Source: UNNAMED STREAM, A TRIBUTARY OF GEDNEY CREEK

Use: MULTIPLE PURPOSE

Quantity: 4.62 ACRE FEET (AF), BEING 2.59 AF IN BIG POND, 0.65 AF IN CATFISH POND, 0.44 AF IN TROUT POND, 0.38 AF IN DIKE POND, AND 0.56 AF IN ORCHARD POND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 6 S SANTIAM R MISC

Point of Diversion Locations:

BIG POND (1) - NENE, SECTION 22, T13S, R1E, W.M.; 1208 FEET SOUTH AND 648 FEET WEST FROM NE CORNER, SECTION 22

CATFISH POND (2) - SENE, SECTION 22, T13S, R1E, W.M.; 1365 FEET SOUTH AND 268 FEET WEST FROM NE CORNER, SECTION 22

TROUT POND (3) - NENE, SECTION 22, T13S, R1E, W.M.; 822 FEET SOUTH AND 428 FEET WEST FROM NE CORNER, SECTION 22

DIKE POND (4) - NENE, SECTION 22, T13S, R1E, W.M.; 1073 FEET SOUTH AND 796 FEET WEST FROM NE CORNER, SECTION 22

ORCHARD POND (5) - NENE, SECTION 22, T13S, R1E, W.M.; 1064 FEET SOUTH AND 328 FEET WEST FROM NE CORNER, SECTION 22

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$
SE $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 22
TOWNSHIP 13 SOUTH, RANGE 1 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 20, 2012

PUBLIC NOTICE DATE: Tuesday, July 10, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, August 9, 2012

Mailing List for IR Copies

Application #R-87815

IR Date : July 6, 2012

Original mailed to applicant:

RANDY ROTH
28600 JONES RD
FOSTER, OR 97345

Copies sent to:

1. WRD - File # R-87815
2. WRD - Water Availability: Ken Stahr

sent via email

3. WRD - Watermaster #2
4. ODFW:
5. DEQ:

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

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. U.S. Fish and Wildlife Service, Oregon Fish & Wildlife Office,
Attn: Paul Henson, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266

Caseworker: Kerry Kavanagh

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