

Oregon Water Resources Department
Water Rights Services Division

Water Rights Application
Number S-87341

Superseding Final Order

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. 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.

Application History

On November 18, 2008, Todd Kuether submitted an application to the Department for a water use permit.

The Department issued a Proposed Final Order (PFO) on May 5, 2009. The protest period closed June 19, 2009, and no protest was filed. The PFO recommended approval of Application S-87341 and determined that water was available for the proposed use under Application S-87341 if Transfer Application T-10726 was approved to change the character of use of the stored water under Permit R-5245 from recreation to multiple purpose. On March 26, 2010, the Department issued Special Order Volume 80, Page 523, approving a change in character of use for Transfer Application T-10726.

On May 31, 2012, the Department issued a Final Order approving Application S-87341 and Permit S-54758. Subsequently, the Department determined Permit S-54758 erroneously included the following condition:

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.

This Order and Permit S-54766 supersede the May 31, 2012, Final Order for Application S-87341 and Permit S-54758, which are no further force or effect.

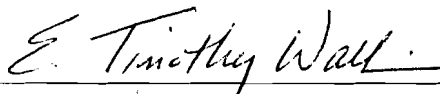
The proposed use would not impair or be detrimental to the public interest.

Order

This Order and Permit S-54766 supersede the May 31, 2012, Final Order for Application S-87341 and Permit S-54758, which are no further force or effect.

Application S-87341 therefore is approved with the above modifications to the Proposed Final Order, and Permit S-54766 is issued as limited by the conditions set forth therein.

DATED July 19 , 2012



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.