



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

BO THORENFELDT
885 HILLSBOROUGH BLVD
HILLSBOROUGH, CA 94010

August 10, 2012

Reference: File R-87822

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 1000.0 acre feet (AF) of water in Rock Creek Reservoir, from Rock Creek, tributary to Malheur Lake, for irrigation.

The application proposed to enlarge Rock Creek Reservoir, constructed under Permit R-7989.

The reservoir will inundate 60.0 acres and have a dam height of 30.0 feet, which is approximately 10 feet higher than the existing structure authorized under Certificate 67673, Permit R-7989.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from Rock Creek, a tributary of Malheur Lake, is allowable under the Malheur Lake Basin Program.
4. Surface water is available during the period November 1 through April 30.
5. Prior to issuance of a permit and construction of the project, final dam designs and specifications must be submitted to the Department and approved by the Department's dam-safety engineer.

Summary of Initial Determinations

The storage of 1000.0 AF of water from Rock Creek, tributary of Malheur Lake, for irrigation is allowable from November 1 through April 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, August 24, 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 diverted / stored each month, and shall submit a report which includes the recorded 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. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
3. The permittee shall pass all live flow outside the storage season described above.

4. 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.
5. 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.
6. 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.
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 503-986-0816 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-87822
WAB 12- 31200107
POU 12- 31200107
GW

APPLICATION FACT SHEET

Application File Number: R-87822

Applicant: BO THORENFELDT

County: Harney

Watermaster: 10

Priority Date: July 23, 2012

Source: ROCK CREEK, A TRIBUTARY OF MALHEUR LAKE

Use: STORAGE FOR IRRIGATION

Quantity: 1000.0 ACRE FEET

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 2 ROCK CR & MISC

Point of Diversion Location: SESW, SECTION 16, T22S, R33E, W.M.; 210 FEET NORTH AND 1340 FEET EAST FROM SW CORNER, SECTION 16

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 16

NW $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 21

TOWNSHIP 22 SOUTH, RANGE 33 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 24, 2012

PUBLIC NOTICE DATE: Tuesday, August 14, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, September 13, 2012

Mailing List for IR Copies

Application #R-87822

IR Date: August 10, 2012

Original emailed to applicant: susanthorenfeldt@gmail.com

BO THORENFELDT
885 HILLSBOROUGH BLVD
HILLSBOROUGH, CA 94010

Copies sent to:

1. WRD - File # R-87822
2. WRD - Water Availability: Ken Stahr

sent via email

3. WRD - Watermaster #10
4. ODFW:
5. DEQ:

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

IR, Map, and Fact Sheet Copies sent to:

6. WRD - Regional Manger: Ivan Gall
7. WRD - Keith Mills
8. Department of Agriculture

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

9. Steve Applegate, Steven Applegate Consulting, 3395 Huckleberry Ct S, Salem OR 97302
10. John Rehm, CWRE #69277, Rehm Geological, 5088 Summerfield Drive SE, Salem, OR 97306

Caseworker: Kerry Kavanagh

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