



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

September 14, 2012

KELLY OR BARBARA BRUUN
10990 SE GRIZZLY MOUNTAIN RD
MADRAS, OR 97741

Reference: File R-87832

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 122.55 acre feet (AF) in Newbill Creek Reservoir, an enlargement of Permit R-13317, from Newbill Creek, a tributary of Willow Creek, for fish life, recreation, and wildlife March 1 through April 30 of each year. The enlarged reservoir will have a dam height of 12.5 feet and inundate 22.2 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from Newbill Creek, a tributary of Willow Creek, for fish life, recreation, and wildlife March 1 through April 30 is allowable under the Deschutes Basin Program.
4. Surface water is available in the amount and for the full period requested.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
6. 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.
7. The proposed use is located above the Deschutes River Scenic Waterway, as designated under Oregon Revised Statute 390.826.

Summary of Initial Determinations

The storage of 122.55 AF in Newbill Creek Reservoir, an enlargement of Permit R-13317, from Newbill Creek, a tributary of Willow Creek, for fish life, recreation, and wildlife March 1 through April 14 is allowable.

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 #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, September 28, 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 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 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. 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. Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at USGS gage 14103000, Deschutes River at Moody, near Biggs, OR, and discontinue diversion when the flows specified below are unmet at the gage. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet at the gage.

Deschutes River Scenic Waterway	
<i>Month</i>	<i>Minimum Flow (cfs)</i>
March 1-15	4500
March 16-31	4000
April 1 - 14	4000

8. 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

R-87832
WAB 5-70591
POU 5-70591
GW

APPLICATION FACT SHEET

Application File Number: R-87832

Applicant: KELLY OR BARBARA BRUUN

County: Jefferson

Watermaster: 11

Priority Date: August 9, 2012

Source: NEWBILL CREEK, A TRIBUTARY OF WILLOW CREEK

Use: FISH LIFE, RECREATION, AND WILDLIFE

Quantity: 122.55 ACRE FEET

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 3 WILLOW CR & TRIBS

Point of Diversion or Well Location(s): NWSE, SECTION 34, T12S, R15E, W.M.; 775 FEET SOUTH AND 1319 FEET EAST FROM C1/4 CORNER, SECTION 34

Place of Use:

SW $\frac{1}{4}$ NE $\frac{1}{4}$

SE $\frac{1}{4}$ NE $\frac{1}{4}$

NE $\frac{1}{4}$ SE $\frac{1}{4}$

NW $\frac{1}{4}$ SE $\frac{1}{4}$

SECTION 34

TOWNSHIP 12 SOUTH, RANGE 15 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 28, 2012

PUBLIC NOTICE DATE: Tuesday, September 18, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, October 18, 2012

Mailing List for IR Copies

Application #R-87832

IR Date: September 14, 2012

Original mailed to applicant:

KELLY OR BARBARA BRUUN, 10990 SE GRIZZLY MOUNTAIN RD, MADRAS, OR 97741

SENT VIA EMAIL:

1. WRD - Watermaster # 11
2. ODFW:
3. DEQ:

Copies sent to:

4. WRD - File # R-87832
5. WRD - Water Availability: Ken Stahr

Copies Mailed

By: _____
(SUPPORT STAFF)
on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture
7. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
8. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
9. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
10. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
Nixyaawii Governance Center, 46411 Timine Way, Pendleton OR 97801
11. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

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

1. Newton, David, CWRE #419

Newton Consultants, Inc., PO Box 1728, 1937 N Business 97, Redmond OR 97756