

Final Order

Application History

On March 8, 1990, the Oregon Department of Fish and Wildlife submitted an application to the Department for an instream water right. On August 20, 1996, the Department issued a Proposed Final Order proposing to issue the certificate with conditions. The amount requested in the application exceeds the estimated average natural flow. Pursuant to OAR 690-077-0015(4) the amounts allowed during any time period were reduced to amounts not exceeding the estimated average natural flow occurring from the drainage basin.

A protest by the Oregon Cranberry Farmers Alliance was filed on October 3, 1996. The Department evaluated the protest to determine if it provided a preponderance of evidence showing that the proposed use would impair or be detrimental to the public interest according to standards described in ORS 537.170(8). The Department finds that the proposed use would not impair or be detrimental to the public interest because the protestant has not provided a preponderance of evidence showing that under OAR 690-077-0037(4)(b)(A)(B): “The proposed use may impair or be detrimental to the public interest according to standards described in ORS 537.170(8), including:

- (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
- (B) Specifically how the identified public interest would be impaired or detrimentally affected.”

The findings of fact and conclusions of law in the Proposed Final Order are incorporated into this Final Order, with an exception explained herein. The Proposed Final Order and the draft certificate contained a scrivener’s error in the cubic feet per second (CFS) limit for the month of February. The Proposed Final Order and draft certificate stated that the limit for February was

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a 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 183.484, ORS 536.075 and OAR 137-004-0080, you may 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.

13 CFS. The correct limit for February is 14 CFS. The certificate issued by this order states the correct limit of 14 CFS for the month of February.

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

Order

IT IS HEREBY ORDERED that Application IS 70229 be approved as provided in the attached certificate.

Issued MAR 15 2013



Dwight W. French
Water Right Services Administrator, for
Phillip C. Ward
Director