



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

April 17, 2013

CITY OF LYONS
ATTENTION: MARY MITCHELL, CITY MANAGER
449 5TH ST
LYONS, OR 97358

Reference: File R-87877

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 year-round storage of 51.5 acre feet (AF) of water from an unnamed stream, tributary of North Santiam River, for fish life, recreation, wildlife, and wetland enhancement in Feres Park Pond 1 and Feres Park Pond 2. Feres Park Pond 1 will store 44.0 AF and inundate 8.8 acres; Feres Park Pond 2 will store 7.5 AF and inundate 1.5 acres.

We understand the ponds are existing "log ponds" that were created about fifty years ago. As part of this application, a concrete structure is proposed to be constructed at the outlet of Pond 2 with a removable board/weir system, which will allow the operating levels of Pond 1 and Pond 2 to be maintained. The outlet weir overflow will be at a lower elevation than the pond high-water level. Once the ponds are filled, the unnamed stream flows will by-pass back into the natural channel. With the installation of the proposed structure, the ponds will not be able to overflow.

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 stored from November 1 through June 30. The Willamette Basin Program allows storage for livestock, irrigation, agriculture, recreation, fish life, wildlife, pollution abatement, and wetland enhancement (OAR 690-502-0040(4)(c)).
4. Surface water is not available during the period August 1 through September 30.

Summary of Initial Determinations

The storage of 51.5 AF, being 44.0 AF in Feres Park Pond 1 and 7.5 AF in Feres Park Pond 2, from an unnamed stream, a tributary of North Santiam River, for fish life, recreation, wildlife, and wetland enhancement may be allowed from November 1 through June 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 **Wednesday, May 1, 2013**. 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, a staff gage that measures the entire range and stage between full reservoir level and dead pool storage must be installed and maintained in each reservoir.
 - B. The permittee shall maintain all required devices in good working order.
 - C. The permittee shall allow the watermaster access to the device(s); provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The permittee shall keep a complete record of the amount of water stored each month, and shall submit a report which includes the recorded report 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.

- E. 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,

A handwritten signature in cursive script that reads "K Kavanagh".

Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87877
WAB 2-30200501
POU 2-30200501
GW

APPLICATION FACT SHEET

Application File Number: R-87877

Applicant: CITY OF LYONS

County: Linn

Watermaster: 16

Priority Date: March 7, 2013

Source: UNNAMED STREAM, A TRIBUTARY OF NORTH SANTIAM RIVER

Use: STORAGE FOR FISH LIFE, RECREATION, WILDLIFE, AND WETLAND
ENHANCEMENT

Quantity: 51.5 ACRE FEET (AF), BEING 44.0 AF IN FERES PARK POND 1 AND 7.5 AF IN
FERES PARK POND 2

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 8 N SANTIAM R

Point of Diversion (POD) Locations:

POD 1 (UNNAMED STREAM) - SWNE, SECTION 19, T9S, R2E, W.M.; 1925 FEET
SOUTH AND 400 FEET EAST FROM N1/4 CORNER, SECTION 19

POD 2 (POND 1 - PROPOSED OUTLET WITH REMOVABLE WIER SYSTEM TO
MAINTAIN LEVELS OF POND 1 AND POND 2) - NWNE, SECTION 19, T9S, R2E,
W.M.; 780 FEET SOUTH AND 280 FEET EAST FROM N1/4 CORNER, SECTION 19

POD 3 (POND 2) - NWNE, SECTION 19, T9S, R2E, W.M.; 600 FEET SOUTH AND
125 FEET EAST FROM N1/4 CORNER, SECTION 19

Place of Use:

NW $\frac{1}{4}$ NE $\frac{1}{4}$
SW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 19
TOWNSHIP 9 SOUTH, RANGE 2 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Wednesday, May 1, 2013

PUBLIC NOTICE DATE: Tuesday, April 23, 2013

30 DAY COMMENT DEADLINE DATE: Thursday, May 23, 2013

Mailing List for IR Copies

Application #R-87877

IR Date: April 17, 2013

Original emailed to applicant:

~~CITY OF LYONS
ATTENTION: MARY MITCHELL, CITY MANAGER
449 5TH ST
LYONS, OR 97358~~

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

SENT VIA EMAIL:

1. applicant - cityoflyons@wavecable.com
2. WRD - Watermaster #16
3. ODFW
4. DEQ

Copies sent to:

1. WRD - File # R-87877
2. WRD - Water Availability: Ken Stahr

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

3. Department of Agriculture
4. Kim Kratz, Director, Oregon State Habitat Office
National Marine Fisheries Service, 1201 NE Lloyd Blvd, Portland OR 97232
5. U.S. Fish and Wildlife Service, Oregon Fish & Wildlife Office,
Attn: Paul Henson, 2600 SE 98th Avenue, Suite 100, Portland, OR 97266
6. James Schuette, CWRE #117, JMS Engineering, 3000 Market St NE, Suite 426, Salem OR 97301

Caseworker: Kerry Kavanagh

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