



# 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

June 21, 2013

LEONARD VAGLIA  
PO BOX 81  
PROSPECT, OR 97536

Reference: File S-87895

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 use of 0.005 cubic foot per second (CFS), from Mill Creek, a tributary of Rogue River, for year-round human consumption use for one household.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Mill Creek, a tributary of Rogue River, for human consumption is allowable under the Rogue Basin Program.
4. Due to requirements for existing water rights and/or minimum flows in a scenic waterway, surface water is not available in sufficient quantities to support the proposed use during the entire period requested. However, the use of 0.005 CFS of water, further limited to 500 gallons per day per household, for human consumption, (indoor use only: cooking, drinking and sanitation) from the proposed source may be considered a high public-interest use if there is no reasonable alternative.

The application included information intending to document that no alternate water source is available, and that denial of the permit would cause loss of reasonable expectation for use of the property. The Department may recommend approval of 0.005 CFS, further limited to 500 gallons per day, for human consumption use (indoor use only: cooking, drinking, sanitation) at the next step in processing.

5. The proposed use is located above the Rogue River Scenic Waterway, as designated under Oregon Revised Statute 390.826.

### Summary of Initial Determinations

**Because not all items above are favorable, the use of 0.005 CFS of water from Mill Creek, a tributary of Rogue River, for year-round human consumption use for one household is not allowable.**

**However, if conditions can be applied to protect instream values, the Department may recommend approval of the application for year-round human consumption use (indoor use only: cooking, drinking, sanitation) at a rate of 0.005 CFS, further limited to 500 gallons per day, at the next stage of processing.**

**At this time, you must decide whether to proceed or to withdraw your application as described below.**

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, July 5**. 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 at the point of diversion. The permittee shall maintain the meter in good working order.
  - B. The permittee shall keep a complete record of the amount of water diverted each month, and shall submit a report which includes the recorded report water-use 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; provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.

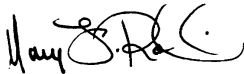
- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

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](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: Mary Rohling, 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 black ink, appearing to read "Mary Rohling". The signature is fluid and cursive, with the first name "Mary" written in a larger, more prominent script than the last name "Rohling".

Mary Rohling  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87895  
WAB 15  
POU 15

# APPLICATION FACT SHEET

Application File Number: S-87895

Applicant: LEONARD VAGLIA

County: Jackson

Watermaster: 13

Priority Date: April 26, 2013

Source: MILL CREEK VIA NYE DITCH, A TRIBUTARY OF ROGUE RIVER

Use: HUMAN CONSUMPTION USE FOR ONE HOUSEHOLD

Quantity: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 2 MILL CR & MISC

Point of Diversion - Mill Creek: NESW, SECTION 28, T32S, R3E, W.M.; 1860 FEET NORTH AND 2690 FEET EAST FROM SW CORNER, SECTION 28

Point of Re-Diversion - Nye Ditch: NWNW, SECTION 11, T33S, R2E, W.M.; 115 FEET SOUTH AND 200 FEET EAST FROM NW CORNER, SECTION 11

Place of Use:

SW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
SECTION 11  
TOWNSHIP 33 SOUTH, RANGE 2 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 5, 2013**

**PUBLIC NOTICE DATE: Tuesday, June 25, 2013**

**30 DAY COMMENT DEADLINE DATE: Thursday, July 25, 2013**

# Mailing List for IR Copies

Application #S-87895

IR Date: June 21, 2013

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Original **emailed** to applicant:

LEONARD VAGLIA  
PO BOX 81  
PROSPECT, OR 97536

**SENT VIA EMAIL:**

1. WRD - Watermaster # 13
2. Applicant - [lpvredb@yahoo.com](mailto:lpvredb@yahoo.com)

Copies sent to:

1. WRD - File # S-87895
2. WRD - Water Availability: Shawn Turner

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager SWR

Affected Landowners (include "Notice of Initial Review--Affected Landowner")

1. Estil Jones, 42256 Hwy 62, Prospect, OR 97536
2. Steve and Roberta Brent, 1946 Mill Creek Dr., Prospect, OR 97536
3. Jim DeVore, 1944 Mill Creek Dr., Prospect, OR 97536
4. Ken Rosenbaum, 1942 Mill Creek Dr., Prospect, OR 97536

Affected District (include "Notice of Initial Review--Affected District")

1. Nye Ditch Users Improvement District Inc., P.O. Box 93, Prospect, OR 97536

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Caseworker: Mary Rohling

COPYSHT.IR

## APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to take and use the waters of Oregon, a citizen must first obtain a permit from the Water Resources Department. The water must be used for beneficial purpose - without waste. To become well-informed about water right topics, weekly public notice, forms and fees please visit our web site at [www.wrd.state.or.us](http://www.wrd.state.or.us)

### 1. *Pre-application considerations*

- follow instructions in the application packet
- if you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Information Group (WRIG) at 503-986-0801

### 2. *Application filing*

- application with fee is received by the Department
- Department determines completeness of application
- if use is not allowed by statute (ORS 538), the application and fees are returned to the applicant
- incomplete application and fees are returned to the applicant
- only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing

### 3. *Initial Review (IR)*

- caseworker reviews application by considering basin plans, water availability, statutory restrictions and all other appropriate factors
- caseworker sends IR report to applicant
- contact the caseworker if you have questions about the IR
- seven days after date of the IR, it is included in Department's weekly Public Notice
- public comments must be submitted within 30 days after the Public Notice
- **administrative hold** may be requested in writing by applicant

### 4. *Proposed Final Order (PFO)*

- caseworker evaluates application against required criteria and develops draft permit, if appropriate
- PFO includes instructions for filing of protests
- caseworker considers public comments and mails PFO to applicant
- the PFO is included in Department's weekly Public Notice
- public protests to the PFO must be submitted within 45 days after the Public Notice

**Stop Processing deadline is within 14 days of Initial Review - use the form below**

- applicant may request no further action and fee refund of all but \$200

### STOP PROCESSING REQUEST FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

Applicant notification to withdraw Water Right Application # \_\_\_\_\_

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$200 examination fee.) I understand that without a valid permit I may not legally use the water as requested in my application

Signature \_\_\_\_\_ date \_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

*Under ORS 537.150 (5) and 537.620 (5) timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$200 examination fee) be returned.*

This notice must be received at Water Resources Department by \_\_\_\_\_

Return the notice to: OWRD, Water Rights Division  
STOP PROCESSING  
725 Summer Street, NE - Suite A  
Salem OR 97301-1271

## 5. *Final Order (FO)*

- if no protest is filed, Final Order is issued

### *The protest process*

If one or more protests are filed, permit process consists of:

- settlement discussion
- contested case hearing
- proposed order
- period of time to file exceptions
- possible hearing by Water Resources Commission
- final order issued

### *Permit holder responsibilities*

- comply with all water use conditions of the permit
- advise Department of address change or assignment to new permit holder
- if need arises, request extension of time or authorize cancellation of permit
- submit timely claim of beneficial use (COBU) to Department
- most permits require COBU to be prepared by a Certified Water Right Examiner
- permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions