



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

LOW LIVING TRUST
20006 S UNGER RD
BEAVERCREEK, OR 97004

July 12, 2013

Reference: File R-87890

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 year-round storage of 46.24 acre feet (AF), being 31.5 AF in Big Tree Reservoir, 9.24 AF in Little Tree Reservoir, and 5.5 AF in Shauna Pond, of water from Randall Creek, a tributary of Nate Creek, for recreation. Big Tree Reservoir has a dam height of 9.6 feet and inundates 5.25 acres, Little Tree Reservoir has a dam height of 4.0 feet and inundates 2.31 acres, and Shauna Pond has a dam height of 8.0 feet and inundates 1.1 acres.
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 diverted for storage from November 1 through June 30. The Willamette Basin Program allows storage for recreation (OAR 690-502-0040(4)(c)).
4. Surface water is available during the period November 1 through May 31.

Summary of Initial Determinations

The storage of 46.24 AF, being 31.5 AF in Big Tree Reservoir, 9.24 AF in Little Tree Reservoir, and 5.5 AF in Shauna Pond, of water from Randall Creek, a tributary of Nate Creek, for recreation may be allowed from November 1 through May 31.

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, July 26, 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 Director may require the permittee to keep and maintain a record of the amount (volume) of water diverted /stored, and may require the permittee to report water use /water storage on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and 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. 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

87890
WAB 2-131
POU 2-131
GW - n/a

APPLICATION FACT SHEET

Application File Number: 87890

Applicant: LOW LIVING TRUST

County: Clackamas

Watermaster: 20

Priority Date: April 18, 2013

Source: RANDALL CREEK, A TRIBUTARY OF NATE CREEK

Use: STORAGE FOR RECREATION

Quantity: 46.24 ACRE FEET (AF), BEING 31.5 AF IN BIG TREE RESERVOIR, 9.24 AF IN LITTLE TREE RESERVOIR, AND 5.5 AF IN SHAUNA POND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 16A NATE CR MISC

Point of Diversion/Dam Locations:

BIG TREE DAM - NESE, SECTION 20, T4S, R3E, W.M.; 559 FEET SOUTH AND 355 FEET WEST FROM E1/4 CORNER, SECTION 20

LITTLE TREE DAM - SENE, SECTION 20, T4S, R3E, W.M.; 311 FEET NORTH AND 158 FEET WEST FROM E1/4 CORNER, SECTION 20

SHAUNA POND - NWSW, SECTION 16, T4S, R3E, W.M.; 1123 FEET SOUTH AND 468 FEET EAST FROM W1/4 CORNER, SECTION 16

Place of Use:

NW $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 16

SE $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 20

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

TOWNSHIP 4 SOUTH, RANGE 3 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 26, 2013

PUBLIC NOTICE DATE: Tuesday, July 16, 2013

30 DAY COMMENT DEADLINE DATE: Thursday, August 15, 2013

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

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