

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE STATE OF OREGON**

In the Matter of Water Rights Application)
G-17565, Deschutes County)

FINAL ORDER

Appeal Rights

This is a Final Order in other than 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 536.075 and OAR 137-004-0080 you may either 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.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Application History

On June 26, 2012, Francis Duane Lee submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on March 19, 2013. The protest period closed May 3, 2013, and no protest was filed.

As required by OAR 690-505-0615, the applicant must submit proposed mitigation that meets the requirements of OAR 690-505-0610(2)-(5). Pursuant to OAR 690-505-0620, a permit shall not be issued until the applicant provides documentary evidence that mitigation water, in an amount satisfying the mitigation obligation, is legally protected instream.

On June 3, 2013, the applicant provided documentary evidence that 3.6 mitigation credits have been obtained from the Deschutes River Conservancy Mitigation Bank. The mitigation credits obtained by the applicant were generated from Mitigation Project MP-172, which are based on an instream lease that generated temporary mitigation credits. These credits are valid through December 31, 2016. The submission of documentary evidence that 3.6 acre-feet of satisfactory mitigation meets the requirements of OAR 690-505-0610(2)-(5) within the Whychus Creek Zone of Impact.

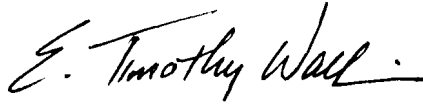
Conclusions of Law

The proposed use would not impair or be detrimental to the public interest (ORS 537.621(2)), but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe the proposed use to include the surface area of the pond (ORS 537.625(1)).

Order

Application G-17565 therefore is approved as proposed by the Proposed Final Order and Permit G-17071 is issued due to submission of documentary evidence that 3.6 mitigation credits within the Whyehus Creek Zone of Impact have been obtained.

Dated at Salem, Oregon on August 9, 2013



E. Timothy Wallin, Water Rights Program Manager
for Phillip C. Ward, Director

This order was produced by Kerry Kavanagh. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0816 or Kerry.L.Kavanagh@wrd.state.or.us.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.