



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

May 30, 2014

ALAN RUTHERFORD
JAN RUTHERFORD
24171 OLD RIVER RD
JUNCTION CITY, OR 97448

Reference: File S-87979

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) of water from Tenmile Lake, a tributary of Tenmile Creek for year-round human consumption (indoor use only: cooking, drinking, and sanitation) 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 Tenmile Lake, a tributary of Tenmile Creek for human consumption is allowable under the South Coast Basin Program.
4. Surface water is available for a limited number of individual rights for human consumption under an agreement between the Oregon Department of Fish and Wildlife, Coos Bay North Bend Water Board, and Tenmile Lake Homeowners Association. That agreement was incorporated as a condition in Certificates 76819 and 76820; the condition precludes regulation of those subsequent human consumption rights in favor of those certificates. Therefore, water is available for human consumption (indoor use only: cooking, drinking, sanitation), not to exceed 500 gallons per day (GPD).
5. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
6. The application is subject to Section 4(d) of the Endangered Species Act.

Summary of Initial Determinations

The use of 0.005 CFS, further limited to 500 GPD, from Tenmile Lake, a tributary of Tenmile Creek for year-round human consumption (indoor use only: cooking, drinking, and sanitation) for one household is allowable during the full period requested.

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 \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, June 13, 2014**. 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 devices, and recording/reporting of annual water use conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter, or other suitable measuring device as approved by the Director, at each point of diversion. The permittee shall maintain the device in good working order.
 - B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.
 - D. 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: Kim French-Gorski, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kim French-Gorski
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87979
WAB 17-31730401
POU 17-31730401
GW

APPLICATION FACT SHEET

Application File Number: S-87979

Applicant: ALAN RUTHERFORD AND JAN RUTHERFORD

County: Coos

Watermaster: 19

Priority Date: May 08, 2014

Source: TENMILE LAKE, A TRIBUTARY OF TENMILE CREEK

Use: HUMAN CONSUMPTION (COOKING, DRINKING, AND SANITATION) FOR ONE HOUSEHOLD

Quantity: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: South Coast, #17

Stream Index Reference: Volume 1 TENMILE L & MISC

Point of Diversion or Well Location(s): NENW, SECTION 21, T23S, R12W, W.M.; 147 FEET SOUTH AND 1016 FEET WEST FROM N1/4 CORNER, SECTION 12

Place of Use:

NE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 21
TOWNSHIP 23 SOUTH, RANGE 12 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 13, 2014

PUBLIC NOTICE DATE: Tuesday, June 3, 2014

30 DAY COMMENT DEADLINE DATE: Thursday, July 3, 2014

Mailing List for IR Copies

Application #S-87979

IR Date: May 30, 2014

Original **e-mailed** to applicant:

~~ALAN RUTHERFORD JAN RUTHERFORD, 24171 OLD RIVER RD, JUNCTION CITY, OR 97448~~

SENT VIA EMAIL:

1. Applicant - alan@99w.us
2. WRD - Watermaster # 19
3. ODFW
4. DEQ

Copies sent to:

1. WRD - File # S-87979
2. WRD - Water Availability: Shawn Turner

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager: SWR
4. Department of Agriculture

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

1. Kim Kratz, Director, Oregon State Habitat Office, National Marine Fisheries Service

1201 NE Lloyd Blvd, Portland, OR 97232

2. Jim Thrailkill, Field Supervisor, USFWS, Roseburg Field Office

2900 N.W. Stewart Parkway, Roseburg, Oregon 97471

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

Caseworker: Kim French-Gorski

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

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 \$225

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 \$225 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 \$225 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