

January 10, 1997

HERMISTON DEVELOPMENT CORP.  
c/o IRZ CONSULTING  
505 E MAIN ST  
HERMISTON, OREGON 97838

Reference: File S-81070

Dear Applicant:

**THIS IS NOT A PERMIT AND IS  
SUBJECT TO CHANGE DURING NEXT PHASE OF PROCESS**

This letter is to inform you of the unfavorable analysis of your proposed use of water and to describe some of your options. Based on the information you have supplied, the Water Resources Department has reached the following conclusions:

Initial Review Determinations:

1. Your application is complete and not defective.
2. The proposed use is not prohibited by law or rule.
3. The Columbia River Basin Program under OAR 519, **classifies** the source for Irrigation, Municipal, and Fish Life uses.
4. The Department's water availability analysis has determined that water is not available for the full irrigation season.
5. Additional Public Interest Standards for New Appropriations (OAR 690-33-120 (2)(a)), does not allow the use of water from direct streamflow from April 15 through September 30.

Conclusion of Initial Review Determinations:

Since water use is allowed only during the period from October 1 to April 14 and cannot be used for the entire irrigation season, it is not likely that you will be issued a permit.



Commerce Building  
158 12th Street NE  
Salem, OR 97310-0210  
(503) 378-3739  
FAX (503) 378-8130

At this time, you must decide whether to proceed or to withdraw your application.

If you intend to continue with the application process and pursue a permit for a shortened season, you will need to address the following application requirements:

1. Water right conflicts exist with your application and those conflicts need to be resolved before a permit could be issued.
2. Additional information is needed as to what benefits result from 50 cfs for fish life.
3. Additional information is needed as to why the quantity of water requested is needed for all uses as described above. This information will include the submission of a form "M".
4. Easements or permission agreements to cross property not owned by you will have to be submitted. In addition, a list of the names and addresses of the owners is needed so we can notify them of the proposed application.

Additional Information Opportunity:

By supplying the Department with additional information concerning the proposed use, you may be able to use water for Irrigation during the period March 1 through April 14; and Municipal use and Fish Life use during the period October 1 through April 14.

If you do not withdraw your application and if you do not provide the additional information as described below, the Department will propose to reject your application. This information should be submitted within 30 days to avoid any further delays in the processing of your application.

In addition to the application information requested, if you would like to be able to use water when it is available, you must supply the Department with the following two items.

Item #1 Supply information that would demonstrate that you can either make beneficial use of the water during the times it is available,

OR

Identify another source of water that you will use during the period when water use is not allowed from the source named in this application.

AND

Item #2 Your acknowledgement that water use will only occur,

under the terms of the permit (if one is issued), during the allowed period of use.

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 as the Department prepares a Proposed Final Order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **JANUARY 24, 1997**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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. A public interest review will be done during the Proposed Final Order stage, after the comment period expires.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. You will be required to measure the amount of water used and report that use annually.
2. You will be required to install fish screens at the diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
3. You will be required to comply with state and federal water quality standards.
4. Within 2 years of permit issuance, the permittee shall submit a water management and conservation plan consistent with OAR Chapter 690, Division 86.
5. Your permit will identify a shortened season of use.

Finally, Division 33 allows the department to approve a water right permit under certain circumstances. A project would have to have measurable public benefits. If you believe that your project fits under 690-33-140, please explain in detail.

If you have any questions:

Feel free to call me at (503) 378-8455 ext. 273 or 1 (800) 624-3199 if you have any questions. Please have your application number available if you call.

Sincerely,

Anita McCloud  
Water Rights Specialist  
Initial Review

cc: Regional Manager, Watermaster, Water Availability  
Section  
enclosures: Flow Chart of Water Right Process  
Stop Processing Form