



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

November 21, 2014

ROY VARDANEGA
29496 HWY 395
FOX, OR 97856

Reference: File R-88022

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 storage of 17.2 acre-feet (AF) of water in three reservoirs, being 4.0 AF in Pond #1, 9.2 AF in Pond #2 and 4.0 AF in Pond #3, from runoff and a spring, tributaries of Fox Creek, a well (GRAN 197), a tributary of Wiley Creek, and a spring, a tributary of Wiley Creek, for fire protection and irrigation.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water in Pond #1, #2 and #3 from a well (GRAN 197) will be addressed in Application G-17944 and cannot be appropriated via this application.
3. The storage of water from runoff and a spring, tributaries of Fox Creek, and a spring, a tributary of Wiley Creek, for fire protection and irrigation is allowable under the John Day Basin Program.
4. Surface water is available during the period January 1 through June 30.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
6. The proposed use is located above the John Day Scenic Waterway, as designated under Oregon Revised Statute 390.826.
7. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

Summary of Initial Determinations

The diversion of 17.2 acre-feet of water for storage in three reservoirs, being 4.0 AF in Pond #1, 9.2 AF in Pond #2 and 4.0 AF in Pond #3, from runoff and a spring, tributaries of Fox Creek, and a spring, a tributary of Wiley Creek, for fire protection and irrigation is allowable January 1 through April 14 of each year.

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, December 5, 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 storage 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 in the reservoirs. If no dead-pool, the gage must measure the full depth of the reservoir. 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 Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

2. Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, Oregon, gage 14048000, and discontinue diversion when the flows specified below are unmet. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet.

John Day Scenic Waterway	
Month	Minimum Bypass Flow (cubic feet per second)
January	500
February	1000
March 1- April 14	2000

3. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
4. The permittee shall pass all live flow outside the storage season described above.
5. This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.
6. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
7. The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.
8. 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

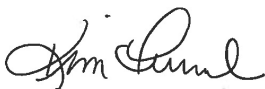
be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

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, 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 "Kim French", with a stylized flourish at the end.

Kim French
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-88022
WAB 6-30620218
POU 6-30620218
GW

APPLICATION FACT SHEET

Application File Number: R-88022

Applicant: ROY VARDANEGA

County: Grant

Watermaster: 4

Priority Date: October 16, 2014

Sources: RUNOFF AND A SPRING, TRIBUTARIES OF FOX CREEK; A WELL (GRAN 197), A TRIBUTARY OF WILEY CREEK; AND A SPRING, A TRIBUTARY OF WILEY CREEK

Use: FIRE PROTECTION AND IRRIGATION

Quantity: 17.2 ACRE-FEET, BEING 4.0 AF IN POND #1, 9.2 AF IN POND #2 AND 4.0 AF IN POND #3

Basin Name & Number: John Day, #6

Stream Index Reference: Volume 2 FOX CR & MISC

Points of Diversion:

WELL 1: NWNW, SECTION 20, T11S, R30E, W.M.; 330 FEET SOUTH AND 2890 FEET EAST FROM N1/4 CORNER, SECTION 19

SPRING 1: NENE, SECTION 19, T11S, R30E, W.M.; 200 FEET SOUTH AND 2230 FEET EAST FROM N1/4 CORNER SECTION 19

SPRING 2: SWSE, SECTION 18, T11S, R30E, W.M.; 480 FEET NORTH AND 1260 FEET EAST FROM S1/4 CORNER, SECTION 18

POND #1: SESE, SECTION 18, T11S, R30E, W.M.; 60 FEET NORTH AND 1830 FEET EAST FROM N1/4 CORNER, SECTION 18

POND #2: SWSE, SECTION 18, T11S, R30E, W.M.; 550 FEET NORTH AND 1130 FEET EAST FROM S1/4 CORNER SECTION 18

POND #3: SWSE, SECTION 18, T11S, R30E, W.M.; 640 FEET NORTH AND 980 FEET EAST FROM S1/4 CORNER, SECTION 18

Place of Use:

SW $\frac{1}{4}$ SE $\frac{1}{4}$
SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 18

NE $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 19

TOWNSHIP 11 SOUTH, RANGE 30 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, December 5, 2014

PUBLIC NOTICE DATE: Tuesday, November 25, 2014

30 DAY COMMENT DEADLINE DATE: Thursday, December 25, 2014

Mailing List for IR Copies

Application #R-88022

IR Date: November 21, 2014

Original and map mailed to applicant:

ROY VARDANEGA , 29496 HWY 395, FOX, OR 97856

SENT VIA EMAIL:

1. WRD - Watermaster # 4
2. ODFW
3. DEQ

Copies sent to:

4. WRD - Water Availability: Shawn Ortiz-Turner

IR, Map, and Fact Sheet Copies sent to:

5. WRD - File # R-88022
6. WRD - Regional Manager: NCR
7. Department of Agriculture
8. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
9. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
10. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
11. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
Nixyaawii Governance Center, 46411 Timine Way, Pendleton OR 97801
12. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

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

1. Robert Baggett, CWRE, PO Box 476, John Day, OR 97845
2. Robert Shinn, 29439 Hwy 395, Fox, OR 97856

Caseworker: Kim French

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