



# 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

February 6, 2015

CONSUELO BYRD  
PO BOX 413  
TIERRA AMARILLA, NM 87575

Reference: File S-88037

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 Rogue River, tributary to the Pacific Ocean, for year-round human consumption use 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 Rogue River, a tributary to the Pacific Ocean, for human consumption is allowable under the Rogue Basin Program (OAR 690-515-0000).
4. The proposed use is located above the Rogue River Scenic Waterway, as designated under Oregon Revised Statute 390.826.
5. Due to requirements for existing water rights and/or minimum flows in a scenic waterway, surface water is not available in sufficient quantities to support the proposed use during the entire period requested. However, the use of 0.005 CFS of water, further limited to 500 gallons per day per household, for human consumption, (indoor use only: cooking, drinking and sanitation) from the proposed source may be considered a high public-interest use if there is no reasonable alternative.

The application included information intending to document that no alternate water source is available, and that denial of the permit would cause loss of reasonable expectation for use of the property. The Department may recommend approval of 0.005 CFS, further limited to 500 gallons per day, for human consumption use (indoor use only: cooking, drinking, sanitation) at the next step in processing.

6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

### Summary of Allowable Water Use

**Because not all items above are favorable, the use of 0.005 CFS of water from Rogue River, tributary to the Pacific Ocean, for year-round human consumption use for one household is not allowable.**

**However, if conditions can be applied to protect instream values, the Department may recommend approval of the application for year-round human consumption use (indoor use only: cooking, drinking, sanitation) at a rate of 0.005 CFS, further limited to 500 gallons per day per household, at the next stage of processing.**

At this time you must decide whether to proceed or to withdraw your application as described below.

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.

#### 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, February 20, 2015**. 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. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

#### 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 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](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 email me at [Barbara.J.Park@wrp.state.or.us](mailto:Barbara.J.Park@wrp.state.or.us) if you have any questions regarding the contents of this letter or your application. Please include your application number in all correspondence. 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: Barbara Park, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Barbara Park  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-88037  
WAB 15-31530708  
POU 15-31530708  
GW

# APPLICATION FACT SHEET

Application File Number: S-88037

Applicant: CONSUELO BYRD

County: Jackson

Watermaster: 13

Priority Date: December 8, 2014

Source: ROGUE RIVER, A TRIBUTARY OF THE PACIFIC OCEAN

Use: HUMAN CONSUMPTION USE FOR ONE HOUSEHOLD

Quantity: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 2 MILL CR & MISC

Point of Diversion: SENW SECTION 15, T34S, R1W, W.M.; 1970 FEET SOUTH AND 2015 FEET EAST OF THE NW CORNER, SECTION 15

Place of Use:

SE  $\frac{1}{4}$  NW  $\frac{1}{4}$   
SECTION 15  
TOWNSHIP 34 SOUTH, RANGE 1 WEST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 20, 2015**

**PUBLIC NOTICE DATE: Tuesday, February 10, 2015**

**30 DAY COMMENT DEADLINE DATE: Thursday, March 12, 2015**

# Mailing List for IR Copies

Application #S-88037

IR Date: February 6, 2015

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**Original and map sent via CERTIFIED MAIL to applicant:**

CONSUELO BYRD, PO BOX 413, TIERRA AMARILLA, NM 87575

**SENT VIA EMAIL:**

1. Applicant, [CONBYRD09@LIVE.COM](mailto:CONBYRD09@LIVE.COM)
2. Agent, Sue Saunders, [SAUNDERS1976@GMAIL.COM](mailto:SAUNDERS1976@GMAIL.COM)
3. WRD - Watermaster # 13
4. WRD - SW Regional Manager, Larry Mentee
5. ODFW
6. DEQ

**Copies sent to:**

1. WRD - Water Availability: Shawn Ortiz-Turner

**IR, Map, and Fact Sheet Copies sent to:**

2. WRD - File # S-88037
3. Department of Agriculture

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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## 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](http://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