



June 19, 2015

MICHAEL K HAMILTON
2541 MILL CREEK DR
PROSPECT, OR 97536

Reference: File S-88091

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 the water-use permit application and to describe the 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 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 Mill Creek, a tributary of Rogue River 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 Mill Creek, a tributary of Rogue River for human consumption is allowable under the Rogue Basin Program (OAR 690-515-0000).
4. Surface water is not available in the amount requested during the entire period requested. However, you provided additional information for the Department to consider human consumption use (indoor use only: cooking, drinking, and sanitation), which would be limited to 500 gallons per day. We will work with the Oregon Department of Fish and Wildlife to attempt to determine conditions which will protect instream values during the months when instream flow requirements are not met. These conditions may include mitigation measures to offset the impact of the requested use. This information will be evaluated at the next step in the application process.

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.

5. The proposed use is located above the Rogue Scenic Waterway, as designated under Oregon Revised Statute 390.826.

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 Mill Creek, a tributary of Rogue River for year-round human consumption use for one household is not allowable, and it appears unlikely that a permit will be issued.

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 the 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 the application and receive a refund (minus a \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, July 3, 2015**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With The Application:

If you choose to proceed with the application, you do not have to notify the Department. The 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.

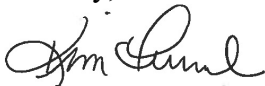
This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. Be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of the application.

The water source identified in the 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/programs/NaturalResources/Pages/AgWaterQuality.aspx> 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 the application. Please have the 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,



Kim French
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-88091
WAB 15-73379
POU 15-73379
GW

APPLICATION FACT SHEET

Application File Number: S-88091

Applicant: MICHAEL K HAMILTON

County: Jackson

Watermaster: 13

Priority Date: May 26, 2015

Source: MILL CREEK, A TRIBUTARY OF ROGUE RIVER

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: NESW, SECTION 28, T32S, R3E, W.M.; 1860 FEET NORTH AND 2690 FEET EAST FROM SW CORNER, SECTION 28

Point of Re-Diversion: NESE, SECTION 9, T33S, R3E, W.M.; 2774 FEET NORTH AND 282 FEET WEST FROM SW CORNER, SECTION 9

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 16
TOWNSHIP 33 SOUTH, RANGE 2 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 3, 2015

PUBLIC NOTICE DATE: Tuesday, June 23, 2015

30 DAY COMMENT DEADLINE DATE: Thursday, July 23, 2015

Mailing List for IR Copies

Application #S-88091

IR Date: June 19, 2015

Original and map mailed to applicant:

MICHAEL K HAMILTON, 2541 MILL CREEK DR, PROSPECT, OR 97536

SENT VIA EMAIL:

1. WRD - Watermaster # 13
2. ODFW
3. DEQ

Copies sent to:

1. WRD - Water Availability: Shawn Ortiz-Turner

IR, Map, and Fact Sheet Copies sent to:

2. WRD - File # S-88091
3. WRD - Regional Manager: SWR
4. Department of Agriculture

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Affected District (include "Notice of Initial Review--Affected District")

1. Nye Ditch Users Improvement District Inc, PO Box 93, Prospect, OR 97536

Caseworker: Kim French

VCOPYSHT.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