



July 24, 2013

MCELLIGOTT LLC
JOSEPH P. MCELLIGOTT
PO BOX 4
IONE, OR 97843

Reference: File R-88107

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 storage of 29.9 acre feet of water in 18 reservoirs for wildlife, livestock, and fire protection in the Rhea Creek basin, specifically:

Res #	Dam Height (feet)	Storage Capacity (acre-feet)	Source	Use		
				WI	LV	FP
R-1	7.0	1.0	Runoff, tributary to McKinney Creek	x	x	x
R-2	10.0	3.8	Runoff, tributary to McKinney Creek	x	x	x
R-3	6.0	0.8	Runoff, tributary to McKinney Creek	x	x	x
R-4	7.0	0.8	Runoff, tributary to McKinney Creek	x	x	x
R-5	9.0	3.4	Runoff, tributary to McKinney Creek	x	x	x
R-6	10.0	2.2	Runoff, tributary to McKinney Creek	x	x	x
R-7	8.0	3.1	Runoff, tributary to unnamed stream	x	x	x
R-8	11.0	2.7	Runoff, tributary to unnamed stream	x	x	x
R-9	8.0	0.3	Runoff, tributary to Balm Canyon	x	x	x
R-10	8.0	1.2	Runoff, tributary to unnamed stream	x	x	x
R-11	12.0	1.7	Runoff, tributary to unnamed stream	x	x	x
R-12	8.0	1.7	Runoff, tributary to unnamed stream	x	x	x

R-13	11.0	1.2	Runoff, tributary to unnamed stream	x	x	x
R-14	7.0	0.6	Runoff, tributary to unnamed stream	x	x	x
R-15	10.0	1.2	Runoff, tributary to unnamed stream	x	x	x
R-16	9.0	0.8	Runoff, tributary to Rocky Creek	x	x	x
R-17	12.0	1.7	Runoff, tributary to unnamed stream	x	x	x
R-18	12.0	1.7	Runoff, tributary to unnamed stream	x	x	x

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water for storage for wildlife, livestock and fire protection from runoff, tributary of McKinney Creek, an unnamed stream, Balm Canyon, and Rocky Creek is allowable under the Umatilla Basin Program (OAR 690-507-0090).
4. Surface water is not available during the period June 1 through November 30.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
6. The application is subject to Section 4(d) of the Endangered Species Act.
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 29.9 acre feet of water for storage in 18 reservoirs for wildlife, livestock and fire protection from runoff, a tributary of McKinney Creek, an unnamed stream, Balm Canyon, and Rocky Creek is allowable December 1 through April 14 of each year.

Because of these favorable determinations, the Department can now move the 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 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.

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, August 7, 2015**. 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. 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.

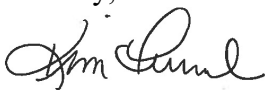
This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. Be aware that, if significant 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. The fax number is 503-986-0901.

Sincerely,

A handwritten signature in black ink, appearing to read "Kim French". The signature is fluid and cursive, with the first name "Kim" and last name "French" clearly distinguishable.

Kim French
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-88107
WAB 7-30710406, 7-307104008
POU 7-30710406, 7-307104008
GW

APPLICATION FACT SHEET

Application File Number: R-88107

Applicant: MCELLIGOTT LLC AND JOSEPH MCELLIGOTT

County: Morrow

Watermaster: 21

Priority Date: July 10, 2015

Source: RUNOFF, A TRIBUTARY OF MCKINNEY CREEK; RUNOFF, A TRIBUTARY OF UNNAMED STREAM; RUNOFF, A TRIBUTARY OF BALM CANYON; RUNOFF, A TRIBUTARY OF ROCKY CREEK

Use: WILDLIFE, LIVESTOCK AND FIRE PROTECTION

Quantity: 29.9 ACRE FEET (AF), BEING 1.0 AF IN RESERVOIR R-1, 3.8 AF IN RESERVOIR R-2, 0.8 AF IN RESERVOIR R-3, 0.8 AF IN RESERVOIR R-4, 3.4 AF IN RESERVOIR R-5, 2.2 AF IN RESERVOIR R-6, 3.1 AF IN RESERVOIR R-7, 2.7 AF IN RESERVOIR R-8, 0.3 AF IN RESERVOIR R-9, 1.2 AF IN RESERVOIR R-10, 1.7 AF IN RESERVOIR R-11, 1.7 AF IN RESERVOIR R-12, 1.2 AF IN RESERVOIR R-13, 0.6 AF IN RESERVOIR R-14, 1.2 AF IN RESERVOIR R-15, 0.8 AF IN RESERVOIR R-16, 1.7 AF IN RESERVOIR R-17, 1.7 AF IN RESERVOIR R-18

Basin Name & Number: Umatilla, #7

Stream Index Reference: Volume 4A RHEA CR & MISC

Points of Diversion:

RESERVOIR R-1: SENE, SECTION 12, T5S, R25E, W.M.; 650 FEET NORTH AND 150 FEET WEST FROM THE E1/4 CORNER, SECTION 12

RESERVOIR R-2: NWSW, SECTION 7, T5S, R26E, W.M.; 300 FEET SOUTH AND 300 FEET EAST FROM W1/4 CORNER, SECTION 7

RESERVOIR R-3: NWSW, SECTION 7, T5S, R26E, W.M.; 760 FEET SOUTH AND 655 FEET EAST FROM W1/4 CORNER, SECTION 7

RESERVOIR R-4: NWSW, SECTION 7, T5S, R26E, W.M.; 1140 FEET SOUTH AND 865 FEET EAST FROM W1/4 CORNER, SECTION 7

RESERVOIR R-5: NENW, SECTION 18, T5S, R26E, W.M.; 980 FEET SOUTH AND 560 FEET WEST FROM N1/4 CORNER, SECTION 18

RESERVOIR R-6: SWNE, SECTION 18, T5S, R26E, W.M.; 645 FEET NORTH AND 110 FEET EAST FROM C1/4 CORNER, SECTION 18

RESERVOIR R-7: NWSE, SECTION 12, T5S, R25E, W.M.; 1140 FEET SOUTH AND 940 FEET EAST FROM C1/4 CORNER, SECTION 12

RESERVOIR R-8: NWSE, SECTION 12, T5S, R25E, W.M.; 600 FEET SOUTH AND 1090

FEET EAST FROM C1/4 CORNER, SECTION 12

RESERVOIR R-9: NENW, SECTION 20, T5S, R26E, W.M.; 540 FEET SOUTH AND 80 FEET WEST FROM N1/4 CORNER, SECTION 20

RESERVOIR R-10: SESE, SECTION 17, T5S, R26E, W.M.; 845 FEET NORTH AND 835 FEET WEST FROM SE CORNER, SECTION 17

RESERVOIR R-11: NWSE, SECTION 8, T5S, R26E, W.M.; 400 FEET SOUTH AND 850 FEET EAST FROM C1/4 CORNER, SECTION 8

RESERVOIR R-12: NWSE, SECTION 8, T5S, R26E, W.M.; 1070 FEET SOUTH AND 1000 FEET EAST FROM C1/4 CORNER, SECTION 8

RESERVOIR R-13: SWSE, SECTION 8, T5S, R26E, W.M.; 1405 FEET SOUTH AND 1190 FEET EAST FROM C1/4 CORNER, SECTION 8

RESERVOIR R-14: NESW, SECTION 4, T5S, R26E, W.M.; 370 FEET SOUTH AND 520 FEET WEST FROM C1/4 CORNER, SECTION 4

RESERVOIR R-15: NESE, SECTION 6, T5S, R26E, W.M.; 600 FEET SOUTH AND 470 FEET WEST FROM E1/4 CORNER, SECTION 6

RESERVOIR R-16: SWSE, SECTION 10, T5S, R26E, W.M.; 1315 FEET NORTH AND 725 FEET EAST FROM S1/4 CORNER, SECTION 10

RESERVOIR R-17: NWNE, SECTION 7, T5S, R26E, W.M.; 220 FEET SOUTH AND 1500 FEET WEST FROM NE CORNER, SECTION 7

RESERVOIR R-18: SESW, SECTION 5, T5S, R26E, W.M.; 940 FEET NORTH AND 1720 FEET EAST FROM SW CORNER, SECTION 5

Place of Use:

SE $\frac{1}{4}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 12
TOWNSHIP 5 SOUTH, RANGE 25 EAST, W.M.

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

SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 5

NE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 6

NW $\frac{1}{4}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 7

NW $\frac{1}{4}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 8

SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 10

SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 17

SW $\frac{1}{4}$ NE $\frac{1}{4}$
NE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 18

NE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 20

TOWNSHIP 5 SOUTH, RANGE 26 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 7, 2015

PUBLIC NOTICE DATE: Tuesday, July 28, 2015

30 DAY COMMENT DEADLINE DATE: Thursday, August 27, 2015

Mailing List for IR Copies

Application #R-88107

IR Date: July 24, 2015

Original and map mailed to applicant:

MCELLIGOTT LLC AND JOSEPH MCELLIGOTT, PO BOX 4, IONE, OR 97843

SENT VIA EMAIL:

1. WRD - Watermaster # 21
2. ODFW
3. DEQ
4. Agent - dalevconsulting@gmail.com
5. Agent - wporfily@gmail.com

Copies sent to:

1. WRD - Water Availability: Shawn Ortiz-Turner

IR, Map, and Fact Sheet Copies sent to:

2. WRD - File # R-88107
3. WRD - Regional Manager: NCR
4. Department of Agriculture

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

Caseworker: Kim French

COPY SHT.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