



Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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September 23, 1997

RONALD G. PAULSON
P.O. BOX 633
NEWPORT, OREGON 97365

Reference: File S-83451

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 unfavorable preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit 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 proposed use is not prohibited by law or rule.
2. The use of water from AN UNNAMED STREAM, A TRIBUTARY OF ALSEA RIVER, for DOMESTIC USE is a **classified use** under OAR 690-518-001(1), the Mid Coast Basin Program.
3. Water in the amount of 0.02 CUBIC FOOT PER SECOND (CFS) for DOMESTIC USE INCLUDING IRRIGATION OF LAWN AND NON-COMMERCIAL GARDEN NOT TO EXCEED ½ ACRE IN AREA is **not available** during the month of October.

Summary of Allowable Water Use

Because item #3 above is unfavorable, the use of 0.02 CFS of water from AN UNNAMED STREAM, A TRIBUTARY OF ALSEA RIVER, for DOMESTIC USE INCLUDING IRRIGATION OF LAWN AND NON-COMMERCIAL GARDEN NOT TO EXCEED ½ ACRE IN AREA is not allowable, and it appears unlikely that you will be issued a permit.

However, by providing additional information as described below, you may be able to pursue a limited permit. 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 \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Tuesday, October 7, 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, please provide the information requested below. Your application will 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.

Additional Information Opportunity:

Option 1: pursue year round use

Due to the lack of water necessary to maintain instream uses protected by an instream water right, water is not available in sufficient quantities to support the proposed use. However, by rule, additional uses may be allowed where public interest in the use is high and the use is conditioned to protect instream values (OAR 690-410-070(2)(a)). Human consumption of water from the proposed source may be considered a high public interest use if there is no reasonable alternative. This may be especially true if denial of the application will result in loss of reasonable expectations for use of the property. If you can provide evidence that this is the case, we will work with the Oregon Department of Fish and Wildlife to determine conditions which will protect instream values during the months listed above in number 3. These conditions may include mitigation measures to offset the impact of the requested use.

Please provide us with:

Evidence that denial of the requested use would result in loss of reasonable expectations for use of the property;

A list of all potential alternate sources of water and a description of why such sources cannot be used; and,

A list of any mitigation measures which might benefit instream resources. (Examples of mitigation measures include but are not limited to: riparian area fencing to exclude livestock; or planting native species in the riparian area.)

Option 2: accept a limited period of use

By supplying the Department with additional information concerning the proposed use, you may be able to use water for DOMESTIC USE INCLUDING IRRIGATION OF LAWN AND NON-COMMERCIAL GARDEN NOT TO EXCEED ½ ACRE IN AREA during the period November 1 through September 30. If you do not either: withdraw your application; provide the additional information as described below; or provide the information described in option 1 above, the Department will propose to deny the application. This information should be submitted within 30 days to avoid any further delays in the processing of your application.

If you would like to be able to use water during the limited time when it is available, you must supply the Department with 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.

Item #2 Your acknowledgment that water use will only occur, under the terms of the permit (if one is issued), during the allowed period of use.

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

1. Measurement, recording and reporting conditions:
 - A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an opportunity for the permittee to submit alternative measuring procedures for review and approval.
 - B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use 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. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

2. You may 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. The tentative priority date for this application is June 16, 1997.

WARNING: 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 public comments 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.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at (800) 624-3199 or (503) 378-8455 extension 499. Feel free to call me at (800) 624-3199 or (503) 378-8455 extension 331 if you have any questions regarding the contents of this letter. Please have your application number available if you call.

Sincerely,



Laura K. Snedaker
Water Rights Examiner

cc: Regional Manager, Watermaster District 18, Water Availability Section
enclosures: Flow Chart of Water Right Process
Stop Processing Form

wab 18-08
pou 18-08