



February 12, 2016

WAIBEL RANCHES LLC
3672 SW JUNIPER CANYON RD
PRINEVILLE, OR 97754

Reference: File R-88155

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 diversion of water from Sarvis Creek, tributary of Crooked River, for storage of 108.0 acre feet (AF) of water in Sarvis Creek Reservoir, an enlargement of Permit R-5534, for multiple purposes. The enlarged reservoir will have a dam height of 75.0 feet and inundate 14.8 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Sarvis Creek, tributary of Crooked River, for storage in Sarvis Creek Reservoir for “multiple purposes” is NOT allowable under the Deschutes Basin Program (OAR 690-505) .

However, under OAR 690-505-0030(1)(a), Deschutes Basin Program, the storage of water for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife, and fish life uses are allowed. The Department must consider whether the application has given “cognizance to the multi-purpose concept” regarding the proposed appropriation of water for storage (OAR 690-505-0030(1)©). Therefore, the storage of water for a single use is not allowable under the Deschutes Basin Program. Please refer to the **Additional Information Required** section below.

4. Surface water is available during the period March 1 through May 31.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

7. The proposed use is located above the Deschutes Scenic Waterway, as designated under Oregon Revised Statute 390.826.
8. Prior to issuance of a permit and construction of the project, final dam designs and specifications must be submitted to the Department and approved by the Department's dam-safety engineer.

Summary of Initial Determinations

The diversion of water from Sarvis Creek, tributary of Crooked River, for storage of 108.0 AF of water in Sarvis Creek Reservoir, an enlargement of Permit R-5534, may be allowed March 1 through April 14 of each year, contingent upon submission of required information.

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated.

Additional Information Required

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following:

- Submit a written statement indicating beneficial use of the water can be made during the times it is available, and that water use may occur only under the terms of the permit (if one is issued), during the allowed period of use (OAR 690-410-0070).
- Documentation that you have given "cognizance to the multi-purpose concept" in regard to the proposed use. Please submit a list of at least two of the allowable beneficial uses listed in Item #3 above and an additional \$300 for any additional use.

Please submit this information to the Department in writing no later than Thursday, March 17, 2016. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed final Order recommending denial of the application.

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.

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

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, February 26, 2016**. 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 storage 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 stored each month, and shall submit a report which includes water-storage 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 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 the proposed water use.

If you have any questions:

Feel free to contact me at Barbara.J.Park@wrdd.state.or.us or 503-986-0859 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: Barbara Park, 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 "Barbara Park". The signature is written in a cursive style with a large, stylized initial "B".

Barbara Park
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-88155
WAB 5-70353
POU 5-70353
GW

APPLICATION FACT SHEET

Application File Number: R-88155

Applicant: WAIBEL RANCHES LLC

County: Crook

Watermaster: 11

Priority Date: December 17, 2015

Source: SARVIS CREEK, A TRIBUTARY OF CROOKED RIVER

Reservoir Name: SARVIS CREEK RESERVOIR, ENLARGEMENT OF PERMIT R-5534

Use: MULTIPLE PURPOSE

Quantity: 108.0 ACRE FEET

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 2 CROOKED R MISC

Point of Diversion: NESW SECTION 9, T17S, R21E, W.M.; 90 FEET SOUTH AND 1620 FEET EAST FROM W1/4 CORNER, SECTION 9

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$
NW $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 9
TOWNSHIP 17 SOUTH, RANGE 21 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 26, 2016

PUBLIC NOTICE DATE: Tuesday, February 16, 2016

30 DAY COMMENT DEADLINE DATE: Thursday, March 17, 2016

Mailing List for IR Copies

Application #R-88155

IR Date : February 12, 2016

Original and map mailed to applicant:

WAIBEL RANCHES LLC, 3672 SW JUNIPER CANYON RD, PRINEVILLE, OR 97754

SENT VIA EMAIL:

1. WRD - Watermaster # 11
2. Agent - Bob Williams, twenty1cows@yahoo.com
3. CWRE, Bruce Estes, EstesSurveysLLC@msn.com
4. ODFW
5. DEQ

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

Copies sent to:

1. WRD - Water Availability: Shawn Ortiz-Turner

IR, Map, and Fact Sheet Copies sent to:

1. WRD - File # R-88155
2. Department of Agriculture
3. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
4. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
5. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
6. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
Nixyaawii Governance Center, 46411 Timine Way, Pendleton OR 97801
7. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

Caseworker: Barbara Park

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