

**Oregon Water Resources Department
Water Right Services Division**

Water Rights Application
Number S-88124

Final Order

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a Final Order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Findings of Fact

1. On August 26, 2015, Seal Rock Water District submitted an application to the Department for a water use permit.
2. The Department issued a Proposed Final Order on June 21, 2016.
3. The protest period closed August 5, 2016, and no protest was filed.
4. On August 5, 2016, the Department received electronic correspondence from Seal Rock Water District requesting the following modifications to the Proposed Final Order:

Seal Rock Water District requests the addition of the following conditions:

- 1) The permittee shall not withdraw, or allow another to withdraw, water from the Siletz River under Permit S-40277 (or any water right derived from Application S-50094), except to the extent that water is not reasonably available under this permit for all use authorized by the terms and conditions of this permit.
- 2) The authorized point of diversion shall not be moved through a permit amendment or water right transfer (or any other water right

transaction) more than 250 feet upstream or 1320 feet downstream from the authorized location in this permit.

Seal Rock Water District requests that the Department modify the condition under "Water Temperature Monitoring" on page 2 of the draft permit as follows: (Additional language is underlined and language to be deleted is struck through.)

3) Two years ~~p~~Prior to initiating water diversion from Beaver Creek, the permittee shall install temperature data loggers that meet DEQ specifications at locations upstream and downstream of the point of diversion. The temperature monitoring shall be conducted during the period from May 15 to October 31 of each year for two years before and five years after water use begins. The permittee shall record water temperature data at a minimum of 30 minute intervals and provide the collected data and supporting audit documentation to the Department and DEQ by December 31 each year, or upon the request of the Director.

4) The Permittee shall develop a sampling and analysis plan (SAP) to identify project management responsibilities, monitoring locations, schedule, quality assurance and data management activities. The permittee shall submit the SAP to the Department and DEQ prior to initiating the above described ~~five years of~~ temperature monitoring. Data loggers shall be operated and maintained consistent with the SAP.

Seal Rock Water District requests that the Department modify the condition under "Other Conditions" on page 3, paragraph 3 of the draft permit as follows:

5) For purposes of this condition, "short-term" supply means supplying water for not more than one continuous period of two calendar years, and not more than two years total in any 10-year period; and "emergency" supply means supplying water for not more than one continuous period of one calendar year, and not more than one year total in any five-year period, to an entity in the event the entity loses its water supply due to unforeseen circumstances.

The modifications requested by the applicant are consistent with OAR 690-310-0240(3) and are allowed.

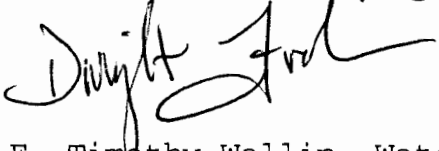
Conclusions of Law

1. The proposed use would not impair or be detrimental to the public interest pursuant to ORS 537.153(2).

Order

Application S-88124 therefore is approved with the above modifications to the proposed Final Order, and Permit S-55012 is issued as limited by the conditions therein.

DATED October 3, 2016

A handwritten signature in black ink, appearing to read "Timothy Wallin", written over the printed name.

E. Timothy Wallin, Water Rights Program Manager
for Thomas M. Byler, Director

This document was prepared by Lisa Graham. If you have any questions about any of the statements contained in this document I can be reached at Elisabeth.A.Graham@wrd.state.or.us or 503-986-0808.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.