



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

November 4, 2016

DAVID ROGERS
26366 GAP RD
BROWNSVILLE, OR 97327

Reference: File S-88285

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 1.25 cubic feet per second (CFS) of water from Pierce Creek, Tub Run, and runoff, tributaries of Little Muddy Creek, for irrigation of 212.3 acres March 1 through October 31; and the diversion of 212.2 acre-feet (AF) of water from Pierce Creek, Tub Run, and runoff, tributaries of Little Muddy Creek, for pond maintenance March 1 through October 31 of each year.
2. The proposed uses are not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Pierce Creek, Tub Run, and runoff, tributaries of Little Muddy Creek, for irrigation is allowable September 1 through January 31 (OAR 690-502-0050(1)(b)).
4. The diversion of water from Pierce Creek, Tub Run, and runoff, tributaries of Little Muddy Creek, for pond maintenance is **not** allowable under the Willamette Basin Program (OAR 690-502-0050).
5. Surface water is available in the amount and for the full period requested.
6. The application is subject to Section 4(d) of the Endangered Species Act and as such subject to review under OAR 690-033.
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 1.25 CFS and 212.2 AF of water from Pierce Creek, Tub Run, and runoff, tributaries of Little Muddy Creek, for irrigation of 212.3 acres and pond maintenance March 1 through October 31 of each year is not allowable, and it appears unlikely that you will be issued a 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 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, November 18, 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 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(s) of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

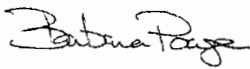
The water source identified in the application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and 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.Poage@wrд.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 Poage, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Barbara Poage
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-88285
WAB 2-30200303
POU 2-30200303
GW

APPLICATION FACT SHEET

Application File Number: S-88285

Applicant: DAVID ROGERS

County: LINN

Watermaster: 2

Priority Date: SEPTEMBER 9, 2016

Source: PIERCE CREEK, TUB RUN, AND RUNOFF, TRIBUTARIES OF LITTLE MUDDY CREEK

Use: IRRIGATION OF 212.3 ACRES; POND MAINTENANCE

Quantity: 1.25 CUBIC FEET PER SECOND; 212.2 ACRE-FEET

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 4 MUDDY CR & MISC (TO WILLA

Points of Diversion:

POD 1: NWSW SECTION 2, T15S, R3W, W.M.; 1395 FEET SOUTH AND 3225 FEET EAST FROM NW CORNER, SECTION 2

POD 2: SWNE SECTION 2, T15S, R3W, W.M.; 3510 FEET SOUTH AND 565 FEET EAST FROM NW CORNER, SECTION 2

Place of Use:

NW ¼ NE ¼ 19.6 ACRES
SW ¼ NE ¼ 3.5 ACRES
NE ¼ NW ¼ 38.4 ACRES
NW ¼ NW ¼ 32.7 ACRES
SW ¼ NW ¼ 28.7 ACRES
SE ¼ NW ¼ 6.6 ACRES
NW ¼ SW ¼ 21.6 ACRES
SECTION 2

NE ¼ NE ¼ 24.2 ACRES
SE ¼ NE ¼ 21.9 ACRES
NE ¼ SE ¼ 15.1 ACRES
SECTION 3

TOWNSHIP 15 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, November 18, 2016

PUBLIC NOTICE DATE: Tuesday, November 8, 2016

30 DAY COMMENT DEADLINE DATE: Thursday, December 8, 2016

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