

Application for a Permit to Use Surface Water



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant Information

| | | | |
|--|----------------------|--------------|-----------------------------------|
| NAME ESTATE OF ARTHUR TOLLEFSON, C/O DENNIS ARTHUR TOLLEFSON, TRUSTEE | | | PHONE (HM) 865-272-5078 |
| PHONE (WK) 865-576-4281 | CELL 865-253-1709 | FAX N/A | |
| ADDRESS 147 GREYSTONE DR. | | | |
| CITY OAK RIDGE | STATE TN | ZIP 37830 | E-MAIL * DATOLLEFSON@GMAIL.COM |

Organization Information

| | | | | |
|---------|-------|-----|----------|------|
| NAME | | | PHONE | FAX |
| ADDRESS | | | | CELL |
| CITY | STATE | ZIP | E-MAIL * | |

Agent Information – The agent is authorized to represent the applicant in all matters relating to this application.

| | | | | |
|--|-------------|--------------|-------------------------------------|------|
| AGENT / BUSINESS NAME STEVEN P. APPLGATE CONSULTING | | | PHONE 503-362-4040 | FAX |
| ADDRESS 3395 HUCKLEBERRY CT S | | | | CELL |
| CITY SALEM | STATE OR | ZIP 97302 | E-MAIL * STEVE.APPLGSP@GMAIL.COM | |

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the department electronically. (paper copies of the final order documents will also be mailed.)

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to get water to which they are entitled.
- I have not provided my social security number in any of the materials submitted to the Department.

I (we) affirm that the information contained in this application is true and accurate.


Applicant Signature

Dennis A. Tollefson, Trustee
Print Name and title if applicable

5/6/2017
Date

Applicant Signature

Print Name and title if applicable

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| | | |
|------------------|--------------------|-------------|
| App. No. S-08408 | For Department Use | Date |
| Permit No. | | MAY 17 2017 |

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SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

Yes

There are no encumbrances.

This land is encumbered by easements, rights of way, roads or other encumbrances.

No

I have a recorded easement or written authorization permitting access.

I do not currently have written authorization or easement permitting access.

Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).

Water is to be diverted, conveyed, and/or used only on federal lands.

List the names and mailing addresses of all affected landowners (*attach additional sheets if necessary*).

N/A

You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map.

SECTION 3: SOURCE OF WATER

A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into. If unnamed, say so:

Source 1: Smith River

Tributary to: Umpqua River

Source 2: _____

Tributary to: _____

Source 3: _____

Tributary to: _____

Source 4: _____

Tributary to: _____

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

B. Applications to Use Stored Water N/A

Do you, or will you, own the reservoir(s) described in item 3A above?

Yes.

No. (Please enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which you should have already mailed or delivered to the operator.)

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If *all* sources listed in item 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.N/A

- By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:
- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
 - A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

SECTION 4: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):
(1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

| SOURCE | USE | PERIOD OF USE | AMOUNT |
|-------------|-------------------|---------------|--|
| Smith River | Human Consumption | Year Around | 0.005 <input checked="" type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af |

For irrigation use only: N/A
 Please indicate the number of primary and supplemental acres to be irrigated.
 Primary: _____ Acres Supplemental: _____ Acres
 List the Permit or Certificate number of the underlying primary water right(s): _____
 Indicate the maximum total number of acre-feet you expect to use in an irrigation season: _____

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households: 1
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

SECTION 5: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

- Pump (give horsepower and type): 1.0 Hp submersible
- Other means (describe): _____

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Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

Closed system from source to residence. Buried 1" pipeline

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler) N/A

C. Conservation

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to public uses of affected surface waters.

Use will be limited to household use as needed.

SECTION 6: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources.

- Diversion will be screened to prevent uptake of fish and other aquatic life.
Describe planned actions: Pump foot valve to be screened to ODFW specifications
- Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Describe planned actions: None needed.
- Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe: N/A
- Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe: Residence has an approved septic/wastewater system

SECTION 7: PROJECT SCHEDULE

Date construction will begin: upon approval

Date construction will be completed: within 5 years

Date beneficial water use will begin: within 5 years

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SECTION 8: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or served by an irrigation or other water district. N/A

| | | |
|--------------------------|---------|-----|
| Irrigation District Name | Address | |
| City | State | Zip |

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SECTION 9: REMARKS

This application requests water for year-round human consumption to ~~serve an existing~~ home adjacent to the Smith River, a tributary to the Umpqua River. The applicant is the current landowner, the Estate of Art Tollefson (the "Estate"). The Estate has been seeking to sell the property and residence for over a year, but has been unable to do so due to the lack of access to a secure source of year-round water for human consumption. The Estate has explored all other options for providing water to the residence for human consumption, and none are sufficient to supply the requested use.

As background, the residence has been present since at least 1965. Art Tollefson lived at the existing residence for many years. During that time, he relied upon a 0.005 cfs domestic water right for one family from an unnamed spring (and tributary to the Smith River) as authorized by Certificate 79309. The same certificate authorizes irrigation of 1.5 acres from the Smith River on the property owned by the Estate, and formerly owned by Art Tollefson.

The source of domestic water supplied under Certificate 79309 is a spring that is shared with an adjacent property, which is currently occupied by Don and Dawn Offerman. The Offermans have a water right for domestic use for one family from the same spring as Mr. Tollefson's Estate. Their use is authorized under Certificate 55155. Certificate 55155 has priority over Certificate 79309.

For many years, these neighboring properties peaceably shared the water from the spring. After Mr. Tollefson passed away, however, the Offermans shut off the spring water to the Tollefson property. They now refuse to turn it back on unless the Estate makes significant changes to the water system to benefit the Offermans. The Estate is faced with having to litigate this issue in order to have access to its water right restored. Therefore, this water source is effectively unavailable to the Estate at this time.

Due to the problems accessing the spring water, the Estate drilled a well on the property in an effort to find an alternative supply of domestic water for the residence. The well produced less than 1 gpm and contained salt. Groundwater is therefore also insufficient to supply the water needed for human consumption at the single residence on the Estate's property.

The Estate has, at this time, explored and exhausted all feasible sources of human consumption water for the property other than the Smith River. As documented above, the spring and groundwater are not viable options. Municipal water is also not available because the property is not within the service area for any municipal water system. The Estate is now left with surface water from the Smith River as its only option for obtaining a reliable water supply for human consumption at the existing residence.

We have reviewed water availability for the Smith River (Watershed ID # 357) and see that, due to instream water rights, water is not available at the 80% exceedance level during the months of August, September and October. This application therefore requests an exception to the 80% water availability calculation for these months, as permitted under OAR 690-410-0070(2)(a). Under the rule, when a stream is otherwise over-appropriated to the extent that water is not available based on the 80% exceedance methodology, "some additional uses may be allowed where the public interest in those uses is high and uses are conditioned to protect instream values." Water for human consumption constitutes a high public interest. ORS 536.310(3) expresses state policy that adequate and safe supplies of water are to be preserved and protected for human consumption. ORS 536.310(12) provides that when proposed uses of water are in conflict, or supplies are inadequate for all who desire to use them, preference shall be given to human consumption over all other uses. Applicable OWRD guidance documents also confirm the Department's previous determination of a high public interest in providing water for human consumption needs. See, OWRD Guidance Memo dated August 15, 2008 relating to Water Availability Determinations for HC [human consumption] applications; Guidance Memo dated

December 5, 1996, relating to Human Consumption and Instream Water Rights; Guidance Memo dated August 26, 1996, relating to Instream Water Right "Exceptions" and human consumption use.

In addition, human consumption, along with livestock consumption and irrigation of non-commercial gardens, are given preference over any other beneficial uses for all waters of the Umpqua River Basin and appropriations for human consumption are allowed even when flows are at or below the minimum perennial streamflow within the basin. OAR 690-516-0005(1)(a), 690-516-0010(1).

To help protect instream values, as required under OAR 690-410-0070(2)(a), the Estate proposes limiting the applied for use to "human consumption," with a maximum rate of 0.005 cfs. The water delivery system would also be enclosed and therefore operate with no evaporative or seepage losses to ensure maximum efficiency. The point of diversion on the Smith River would be the existing point of diversion for the irrigation right authorized as a separate use under Certificate 79309. The Estate would screen the pump at this point of diversion to protect fish. Finally, as a condition for issuance of a water right from the Smith River, the Estate would work with the Department to cancel the existing (but inaccessible) domestic use spring water right.

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Land Use Information Form

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Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

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Applicant: Dennis First Tollefson Last

Mailing Address: 147 Greystone Dr.

Oak Ridge City TN State 37830 Zip Daytime Phone: _____

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

| Township | Range | Section | ¼ ¼ | Tax Lot # | Plan Designation (e.g., Rural Residential/RR-5) | Water to be: | | | Proposed Land Use: |
|----------|-------|---------|------|-----------|---|--|--|--|--------------------|
| 20 S | 9 W | 31 | SWSE | 900 | | <input checked="" type="checkbox"/> Diverted | <input checked="" type="checkbox"/> Conveyed | <input checked="" type="checkbox"/> Used | Human Consumption |
| | | | | | | <input type="checkbox"/> Diverted | <input type="checkbox"/> Conveyed | <input type="checkbox"/> Used | |
| | | | | | | <input type="checkbox"/> Diverted | <input type="checkbox"/> Conveyed | <input type="checkbox"/> Used | |

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Douglas County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
 Water Right Transfer
 Permit Amendment or Ground Water Registration Modification
 Limited Water Use License
 Allocation of Conserved Water
 Exchange of Water

Source of water: Reservoir/Pond Ground Water Surface Water (name) Smith River

Estimated quantity of water needed: 0.005 cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for 1 household(s)
 Municipal Quasi-Municipal Instream Other _____

Briefly describe:

An old spring source for the residence on the 4 property is no longer available. Water from Smith River will be equipped with a water filtration and purification system to provide human consumption water to the house.

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): 3.2.050

Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) If approvals have been obtained but all appeal periods have not ended, check "Being pursued."

| Type of Land-Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.) | Cite Most Significant, Applicable Plan Policies & Ordinance Section References | Land-Use Approval: | |
|--|---|--|--|
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |
| | | <input type="checkbox"/> Obtained <input type="checkbox"/> Denied | <input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued |

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

R12279

**DOUGLAS COUNTY PLANNING DEPARTMENT
ROOM 106, JUSTICE BUILDING
DOUGLAS COUNTY COURTHOUSE
ROSEBURG, OR 97470**

Name: THOMAS MCINTOSH Title: PLANNER
 Signature: *Thomas McIntosh* Phone: 541-440-4289 Date: 5-4-17
 Government Entity: DOUGLAS COUNTY

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

Revised 2/1/2012

Surface Water/10

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5-88408

Order No. 122089

LEGAL DESCRIPTION
"EXHIBIT A"

The Southwest Quarter of the Southeast Quarter of Section 31, Township 20 South, Range 9
West, Willamette Meridian, Douglas County, Oregon.

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S-88408



Oregon Water Resources Department
Apply for a Permit to Appropriate Surface Water

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Today's Date: Wednesday, May 17, 2017

| | | |
|--|--------------------|------------|
| Base Application Fee for use of Surface and optionally Stored Water. | | \$800.00 |
| Number of proposed cubic feet per second (cfs) to be diverted. (1 cfs = 448.83 gallons per minute) | 1 | \$300.00 |
| Number of proposed Use's for the appropriated water. (i.e. Irrigation, Supplemental Irrigation, Pond Maintenance, Industrial, Commercial, etc) * | 1 | |
| Number of proposed Surface Water points of diversions. ** | 1 | |
| Number of Acre Feet to be diverted from Stored Water. (if the application is appropriating water from a pond/reservoir) | 0 | |
| Permit Recording Fee. *** | | \$450.00 |
| * the 1st Water Use is included in the base cost. ** the 1st Surface Water point of diversion is included in the base cost. *** the Permit Recording Fee is not required when the application is submitted but, must be paid before a permit will be issued. It is fully refundable if a permit is not issued. If the recording fee is not paid prior to issuance of the Final Order, permit issuance will be delayed. | Recalculate | |
| Estimated cost of Permit Application | | \$1,550.00 |

OWRD Fee Schedule

| |
|-----------------------------------|
| |
| Fee Calculator Version: B20130709 |

B0488-5

May 17, 2017

Elizabeth E. Howard

Admitted in Oregon, Washington and
North Dakota

T: 503-796-2093

ehoward@schwabe.com

Dwight W. French
Oregon Water Resources Department
725 Summer St., NE, Suite A
Salem, OR 97301

RE: Application for Human Consumption Use - Smith River, Estate of Arthur
Tollefson
Our File No.: 131154-221427

Dear Dwight:

The enclosed application is submitted for filing on behalf of our client, the Estate of Arthur Tollefson, c/o Dennis Tollefson, Trustee. Steve Applegate is providing technical assistance on this application.

The application requests use of surface water from the Smith River, a tributary to the Umpqua River, for human consumption use.

As explained in the application materials, Mr. Tollefson, a Trustee of the Estate, is requesting an exception to the standard water availability analysis, as permitted under OAR 690-410-0070(2)(a). This is a hardship request in that the water is needed to serve an existing home, and the Estate is no longer able to access a historical certificated water source (a spring located on a neighboring property), and the Estate has not been able to identify an alternative source of supply, despite efforts to do so. Please see the "Remarks" section of the application for additional background and supporting analysis.

Upon your receipt of this letter and the attached application, we would appreciate the opportunity for a meeting so that we may discuss the application and provide other information the Department may find useful in its consideration of the application. We have copied Anna Pakenham-Stevenson with Oregon Department of Fish and Wildlife on this letter and application, and would hope to include her or her staff in the meeting as well. I have discussed this application with the watermasters in District 15, and we would like to keep them in the loop as well.

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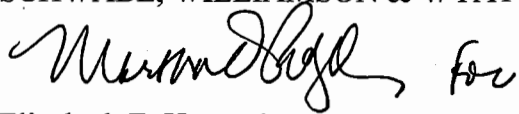
5-88408

Dwight W. French
May 17, 2017
Page 2

Thank you for your attention to this matter. We look forward to hearing from you and the assigned case worker soon.

Sincerely,

SCHWABE, WILLIAMSON & WYATT, P.C.



Elizabeth E. Howard

EEH/cw

Enclosures

cc: (all w/encls.)
Dennis A. Tollefson
Anna Pakenham Stevenson
Mr. Steven P. Applegate

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S-88403

Minimum Requirements Checklist

Minimum Requirements (OAR 690-310-0040, OAR 690-310-0050 & ORS 537.140)

Include this checklist with the application

Check that each of the following items is included. The application will be returned if all required items are not included. If you have questions, please call the Water Rights Customer Service Group at (503) 986-0900.

- SECTION 1: applicant information and signature
- SECTION 2: property ownership
- SECTION 3: source of water requested
- SECTION 4: water use
- SECTION 5: water management
- SECTION 6: resource protection
- SECTION 7: project schedule
- SECTION 8: within a district N/A
- SECTION 9: remarks

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Attachments:

-
- Land Use Information Form with approval and signature (*must be an original*) or signed receipt
 - Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.
 - Fees - Amount enclosed: \$ 1,550.00
See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900.

Provide a map and check that each of the following items is included:

-
- Permanent quality and drawn in ink
 - Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
 - North Directional Symbol
 - Township, Range, Section, Quarter/Quarter, Tax Lots
 - Reference corner on map
 - Location of each well, and/or dam if applicable, by reference to a recognized public land survey corner (distances north/south and east/west)
 - Indicate the area of use by Quarter/Quarter and tax lot clearly identified
 - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery N/A
 - Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)
 - Other:

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