



September 1, 2017

DAVID FAZIO
KRISTI FAZIO
17799 NW LUCY REEDER RD
PORTLAND, OR 97231

Reference: File S-88368

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 3.43 cubic feet per second (CFS) of water from Multnomah Channel, tributary of Marquam Dry Lake Channel, and an unnamed ditch, tributary of Mud Slough, for irrigation of 274.4 acres March 1 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The diversion of water from Multnomah Channel, a tributary of Marquam Dry Lake Channel and an unnamed ditch, a tributary of Mud Slough, for irrigation is allowable under the Willamette Basin Program (OAR 690-502-0150).
4. Surface water is available in the amount and for the full period requested.
5. The application is subject to Section 4(d) of the Endangered Species Act and as such, subject to review under OAR 690-033 by the Oregon Departments of Agriculture, Fish and Wildlife, and Environmental Quality.
6. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Determinations

The diversion of 3.43 CFS of water from Multnomah Channel, tributary of Marquam Dry Lake Channel, and an unnamed ditch, tributary of Mud Slough, for irrigation of 274.4 acres is allowable during the full period requested, March 1 through October 31 of each year, contingent upon the submittal of items under Additional Information Required section.

Because of these favorable determinations, the Department can now move the application 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 items:

- The map submitted does not meet the requirements of OAR 690-310-0050(4)(a). Please provide a map that shows the correct location the sections 15 and 16.
- The rate and number of acres on the Land Use Form must be consistent with the application. An updated Land Use showing the requested rate and acreage is required.

Please submit this information no later than Thursday, October 5, 2017. 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.

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.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw the application and receive a refund (minus a \$260 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, September 15, 2017**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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 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. 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 call me at 503-986-0808 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: Lisa Graham, 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 blue ink, appearing to read 'L. Graham', with a long horizontal line extending to the right.

Lisa Graham
Water Right Application Specialist

enclosures: Application Process Description and Stop Processing Request Form

S-88368
WAB 2-none
POU 2-none
GW

APPLICATION FACT SHEET

Application File Number: S-88368

Applicant: DAVID FAZIO AND KRISTI FAZIO

County: MULTNOMAH

Watermaster: 20

Priority Date: FEBRUARY 15, 2017

Source:

MULTNOMAH CHANNEL, TRIBUTARY OF MARQUAM DRY LAKE CHANNEL

UNNAMED DITCH, TRIBUTARY OF MUD SLOUGH

Use: IRRIGATION OF 274.4 ACRES

Quantity: 3.43 CUBIC FEET PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 26 COLUMBIA R & MISC WWM

Points of Diversion:

A-1 CANAL: SWSW, SECTION 10, T2N, R1W, W.M.; 80 FEET NORTH AND 585 FEET EAST FROM SW CORNER, SECTION 10

CHARLTON LINDER: SESE, SECTION 9, T2N, R1W, W.M.; 90 FEET NORTH AND 520 FEET WEST FROM SE CORNER, SECTION 9

Place of Use:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 0.7 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.9 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 20.6 ACRES
SECTION 9

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 21.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 39.4 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 18.4 ACRES
SECTION 10

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 0.1 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 28.3 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 39.8 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 14.3 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 14.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 27.2 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.7 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 4.6 ACRES
SECTION 15

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 11.3 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 2.1 ACRES
SECTION 16

TOWNSHIP 2 NORTH, RANGE 1 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: September 15, 2017

PUBLIC NOTICE DATE: Tuesday, September 19, 2017

30 DAY COMMENT DEADLINE DATE: Thursday, October 5, 2017

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