

STATE OF OREGON
WATER RESOURCES DEPARTMENT
WATER RIGHTS DIVISION

Before the Director Water Resources Department

In the matter of) FINAL
Surface Water Application) ORDER
S-73011 submitted by)
NICK OR ESTHER NICASTRO

FINDINGS OF FACT

Water Use Request

1. NICK OR ESTHER NICASTRO requested use of 0.005 CUBIC FOOT PER SECOND (CFS) of water from UMPQUA RIVER, A TRIBUTARY OF PACIFIC OCEAN for IRRIGATION OF 0.5 ACRE within the Umpqua Basin.
2. The area of proposed use is in DOUGLAS County within SECTION 13, TOWNSHIP 22 SOUTH, RANGE 10 WEST, W.M.
3. The water delivery system is described by the applicant as a 3/4 hp centrifugal pump in a natural depression in the river will raise the water through a PVC pipe. The water will be distributed to the lawn or garden using stand pipes and garden sprinklers. The distance from the river to the house is approximately 75 feet.
4. The request was made in Application S-73011 which was received by the Water Resources Department on November 23, 1992.

Affected Waters

1. UMPQUA RIVER, A TRIBUTARY OF PACIFIC OCEAN is not within or above a State Scenic Waterway.
2. ODFW has advised that one or more species of game fish are present at the described point of diversion.
3. There are senior water rights on UMPQUA RIVER, A TRIBUTARY OF PACIFIC OCEAN or on downstream waters.

Department Actions

1. The application was determined to be complete and not defective.
2. A technical review of the application was completed and a report of the results of that review was mailed to the applicant on October 27, 1993.
3. The technical review determined:
 - a. IRRIGATION is allowed under the Umpqua Basin Program.
 - b. The use is not prohibited by Statute.
 - c. Water is available for further appropriation (at an 80 percent exceedance probability) for the period FROM MARCH 1 THROUGH OCTOBER 31.

- d. The use would not injure existing water rights.
4. The report of technical review listed these determinations and disclosed a number of conditions and restrictions that would likely be included in the permit if issued. These conditions and restrictions are listed in PERMIT 51832.
 5. A Proposed Final Order for this application was completed and a copy of that review was mailed to the applicant on October 10, 1995.

Assessment

1. In proceeding with evaluation of Application S-73011, the following criteria were found to be relevant by the Department.
 - a. The Umpqua Basin Program (OAR Chapter 690, Division 516)
 - b. The DOUGLAS County Comprehensive Plan and Zoning Ordinance
 - c. The amount of water available in UMPQUA RIVER, A TRIBUTARY OF PACIFIC OCEAN
 - d. The established rate and duty for the proposed use
 - e. Pending, senior applications and existing water rights of record
 - f. Comments received

CONCLUSIONS OF LAW

1. Based upon continued evaluation, the Department finds the determinations of the Proposed Final Order remain valid.
2. The Department has determined that, to protect the resource, an additional condition on the proposed water use is necessary. The condition, as further described on PERMIT 51832, would require FISH SCREENS.
3. The period of allowed use is MARCH 1 THROUGH OCTOBER 31.
4. The Department finds that no more than 0.005 CFS would be necessary for the proposed use. The amount of water requested, 0.005 CUBIC FOOT PER SECOND, is allowable.
5. DOUGLAS County Planning Department staff completed the Department's Land Use Information Form and indicated thereon that the land use associated with the proposed use is compatible with the DOUGLAS County Comprehensive Land Use Plan.
6. The proposed use would not conflict with existing water rights, and, if exercised in accordance with law, rule, and the proposed conditions would not result in injury to existing water users.
7. The proposed use complies with all other rules of the Commission.

8. Pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly, and given the findings listed above, a rebuttable presumption has been established that the use will not impair or be detrimental to the public interest if exercised in the manner described in PERMIT 51832.


9. No protests were timely filed in response to the Proposed Final Order of October 10, 1995, and no significant issues or disputes are known to the Department at this time.

10. Therefore, the proposed use, as conditioned, and described in PERMIT 51832, would not impair or be detrimental to the public interest.

ORDER

IT IS HEREBY ORDERED that Application S-73011 in the name of NICK OR ESTHER NICASTRO be approved for IRRIGATION OF 0.5 ACRE as provided on PERMIT 51832.

DATED December 22, 1995



Martha O. Page
Director
Water Resources Department

NOTICE:

This Final Order is issued by the Department pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly.

If this Final Order has modified the Department's prior findings or conditions, the applicant may request a contested case hearing within 14 days from the date of this order.

Issues on which a contested case hearing may be requested and conducted are limited to issues based on modifications to the Proposed Final Order.

Requests for a contested case hearing must be made in proper form, submitting the information required under Section 11(6), Chapter 416, Oregon Laws, 1995.

Requests for a contested case hearing must be received by the Water Resources Department in Salem, Oregon by 5:00 pm on January 5, 1996.

Only the applicant and any persons who timely filed a protest may appeal the provisions of this final order.