

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 the attached draft permit.

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 technical review remain valid.

2. Based on comments and data received, the Department has determined that VARIOUS GAME FISH ARE PRESENT AT THE POD. The Department has further determined that, to protect the resource, an additional condition on the proposed water use is necessary. The condition, as further described on the attached draft permit, would require FISH SCREENS.

3. Period of allowed use: FROM 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.

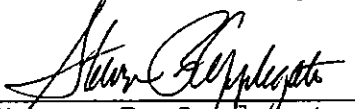
8. Pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly, and given the findings listed above, a rebuttable presumption has been established that the use will not impair or be detrimental to the public interest if exercised in the manner described in the attached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

9. Therefore, the proposed use, as conditioned, and described in the attached draft permit, would not impair or be detrimental to the public interest.

PROPOSED ORDER

IT IS PROPOSED that Application S-73011 in the name of NICK NICASTRO be approved for IRRIGATION OF 0.5 ACRE as provided on the attached draft permit.

DATED October 10, 1995



Steven P. Applegate
Administrator
Water Rights and Adjudications Division

NOTICE:

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

To seek changes in this proposed final order, you must file a formal protest.

Formal protests to this proposed final order must be made in proper form and accompanied by the statutory fee in the amount of \$200. Note: The applicant is not subject to this fee.

For other than the applicant, if you agree with the findings in this proposed order, but wish to maintain your right to participate in any contested case proceeding or judicial review, you must file a written request for standing. Requests for standing in proceedings relating to this application must be made in the proper form and accompanied by the statutory fee in the amount of \$50.

Protests or requests for standing, along with the appropriate fees must be received by the Water Resources Department in Salem, Oregon by 5:00 pm on November 24, 1995.

Only the applicant and any persons who timely file a protest or request for standing may participate in further proceedings before the Department or the Commission which deal with this Application.

DRAFT
STATE OF OREGON
COUNTY OF DOUGLAS

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

NICK NICASTRO
19739 PLEASANT VIEW
GROVELAND, CALIFORNIA 95321

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: S-73011

SOURCE OF WATER: UMPQUA RIVER, A TRIBUTARY OF PACIFIC OCEAN

PURPOSE OR USE: IRRIGATION OF 0.5 ACRE

Rate of use: 0.005 CFS

Period of allowed use: FROM MARCH 1 THROUGH OCTOBER 31

DATE OF PRIORITY: November 23, 1992

POINT OF DIVERSION LOCATION: SE 1/4 SW 1/4, SECTION 13, T22S, R10W, W.M.; 90 FEET NORTH & 1870 FEET EAST FROM SW CORNER, SECTION 13

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SE 1/4 SW 1/4 0.5 ACRE
SECTION 13
TOWNSHIP 22 SOUTH, RANGE 10 WEST, W.M.

Measurement recording and reporting conditions:

- A. The Director may require the permittee to install a meter or other suitable measuring device as approved by the Director. If the Director notifies the permittee to install a meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the meter or measuring device in good working order and shall allow the watermaster access to the meter or measuring device. The Director may provide an

opportunity for the permittee to submit alternative measuring procedures for review and approval.

- B. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

The permittee shall install, maintain, and operate fish screening and by-pass devices as required by the Oregon Department of Fish and Wildlife to prevent fish from entering the proposed diversion. The required screens and by-pass devices are to be in place, functional and approved by an ODFW representative prior to diversion of any water. The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream.

STANDARD CONDITIONS

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water allowed herein may be made only at times when sufficient water is available to satisfy all prior rights, including prior rights for maintaining instream flows.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Actual construction work shall begin within one year from permit issuance and shall be completed on or before October 1, 1997. Complete application of the water to the use shall be made on or before October 1, 1998.

Issued _____, 199_

DRAFT

Water Resources Department
Martha O. Pagel
Director

Application S-73011 Water Resources Department
Basin 16 Volume 1 UMPQUA RIVER & MISC
WHF MNGMT CODES ODFW

PERMIT DRAFT
District 15