



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

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Water Right Application Initial Review

April 6, 2018

DAVID GARCIA
SUZANNE GARCIA
2975 ARDILLA RD
ATASCADERO CA 93422

Reference: R-88513

Application R-88513 proposes the diversion of 15.5 acre-feet (AF) of water for storage in Takelma Reservoir from runoff and Potter Gulch, tributary to Deer Creek, for irrigation, agriculture use, commercial use, industrial use, and nursery use January 1 through December 31 of each year.

Summary

Surface water is available January 1 through April 30 of each year.

Application R-88513 can move to the next phase of the water-rights application review process, which includes a public interest review. This initial review does not 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. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

At this time, you must decide whether to proceed or to withdraw the application.

Proceed

If you choose to proceed with the application you do not have to notify the Department. The application will 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.

Withdraw

You may withdraw the application and receive a refund (minus a \$260 processing charge per application). You must notify the Department in writing by **Friday, April 20, 2018**. For your convenience you may use the enclosed "STOP PROCESSING" form.

Initial Review Preliminary Determinations (OAR 690-310-0080)

1. The application proposed the diversion of 15.5 acre-feet (AF) of water for storage in Takelma Reservoir from runoff and Potter Gulch, tributary to Deer Creek, for irrigation, agriculture use, commercial use, industrial use, and nursery use January 1 through December 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. As defined in OAR 690-500, nursery use is included in irrigation, which is allowed under the Rogue Basin Program (690-515). ORS 537.621(3)(b); OAR 690-310-0150(2)(b)
4. Irrigation use (including nursery use), agriculture use, and industrial use are allowed uses under the Rogue Basin Program (690-515). Commercial use is **not** an allowed use under the Rogue Basin Program.
5. An assessment of water availability at 50% exceedance for the proposed use was completed using the Department's Water Availability Reporting System (WARS). A copy of this assessment is in the application file. For this application, and for most reservoir applications, the Department uses WARS at 50% exceedance for determining water availability to provide a consistent method of avoiding periods of the year when flows are low and seldom exceed the needs of water rights and when additional flows are needed to support public uses. This review is done consistent with OAR 690-410-0070(2)(c). The assessment established that surface water is available at a 50% exceedance January 1 through April 30. ORS 537.153(3)(c); OAR 690-310-0150(2)(c)
6. The proposed use is located above the Illinois Scenic Waterway, as designated under Oregon Revised Statute 390.826.
7. Documentation for irrigation and agricultural uses has been submitted from the relevant land-use planning jurisdiction that indicates the proposed uses are allowed outright. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)

Additional Information Required /Opportunity

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend permit approval.

1. The map submitted does not meet the requirement of OAR 690-310-0050(4)(a). Please provide a map that shows the location of the pond. The location may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from a Public Land Survey Corner).

Please submit the requested information listed above no later than Thursday, May 10, 2018. If we do not receive the items listed above by Thursday, May 10, 2018, the Department may reject the application and may refund fees.

If a Permit is Issued it will Likely Include the Following Conditions:

1. Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. A permit is subject to cancellation proceedings if the begin construction deadline is missed.
2. You may be required to install, maintain, and operating fish screening and/or by-pass devices consistent with current ODFW standards. Fish screening is to prevent fish from entering the proposed diversion, while by-pass devices provide adequate upstream and downstream passage for fish. The required screen and by-pass shall be in place and functional, and approved in writing by ODFW prior to diversion of water. The water user may submit evidence in writing that ODFW has determined screens and/or by-pass devices are not necessary. A permit is subject to cancellation proceeding if water use begins before installation of fish screening and or by-pass devices.
3. **Measurement Devices and Recording/Reporting of Annual Water Storage Conditions:**
 - A. Before water use may begin under this permit, a staff gage that measures the entire range and stage between full reservoir level and dead-pool storage shall be installed in the reservoir. If no dead-pool, the gage must measure the full depth of the reservoir. 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 Director may require the permittee to keep and maintain a record of the volume of water stored, and may require the permittee to report water-storage 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

4. Reservoir Standard Conditions:

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.

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For

purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR 635-415, shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet state or federal water quality standards due to reduced flows.

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.

Construction of the water system shall begin within five years of the date of permit issuance. The deadline to begin construction may not be extended. This permit is subject to cancellation proceedings if the begin construction deadline is missed.

The permitted volume of water shall be stored within ten years of the date of permit issuance. If additional time is needed, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after storage of water, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner.

If you have any questions:

Feel free to contact me at Elisabeth.A.Graham@oregon.gov or 503-986-0808 if you have any questions regarding the contents of this letter or the application. Please include the application number in all correspondence. 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,



Lisa Graham
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
R-88513
WAB: 70991

APPLICATION FACT SHEET

Application File Number: R-88513

Applicant: DAVID GARCIA AND SUZANNE GARCIA

County: JOSEPHINE

Watermaster: JAKE JOHNSTONE, 14, SWR

Priority Date: FEBRUARY 16, 2018

Source: POTTER GULCH AND RUNOFF, TRIBUTARIES TO DEER CREEK

Purpose or Use of the stored water: IRRIGATION (INCLUDING NURSERY USE)
AGRICULTURE USE, COMMERCIAL USE, AND INDUSTRIAL USE

Storage Facility Name: TAKELMA RESERVOIR

Maximum Volume: 15.5 ACRE-FEET

Basin Name & Number: ROGUE, # 15

WAB: DEER CR > ILLINOIS R - AB MCMULLIN CR

Point of Diversion:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POTTER GULCH	38 S	7 W	WM	8	SW SW	200 FEET NORTH AND 1000 FEET EAST FROM SW CORNER, SECTION 8

The Area to be submerged by the Reservoir:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
TAKELMA POND	38 S	7 W	WM	8	SW SW	NONE GIVEN

PUBLIC NOTICE DATE: Tuesday, April 6, 2018

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 20, 2018

30 DAY COMMENT DEADLINE DATE: Thursday, May 10, 2018

APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to use the waters of Oregon, an application must be submitted and a permit obtained from the Water Resources Department. The water must be used for beneficial purpose without waste. For more information 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 Customer Service Group 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.
- An 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.
- Four 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.
- **An 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.

5. Final Order (FO)

- If no protest is filed, Final Order is issued.

The protest process

If one or more protests are filed, the process consists of:

- settlement discussion;
- contested case hearing;
- proposed Order;
- period of time to file exceptions; or
- Possible hearing by Water Resources Commission.
- Final Order is 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 the 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

STOP PROCESSING REQUEST FORM
FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR
APPLICATIONS

- Stop processing deadline is within 14 days of Initial Review.
- Applicant may request no further action and fee refund of all but \$260.
- Applicant notification to withdraw Water Right Application **R-88513**.
- After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$260 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 \$260 examination fee) be returned.
- This notice must be received at Water Resources Department by:

Friday, April 20, 2018

- Return the notice to:

OWRD, Water Right Services Division
STOP PROCESSING
725 Summer Street, NE - Suite A,
Salem OR, 97301-1271
