



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

August 31, 2018

PORT OF MORROW
ATTN: MIFF DEVIN
2 MARINE DR
BOARDMAN OR 97818

Reference: Application S-88507

This document is to inform you of the preliminary analysis of the water-use permit application and to describe your 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 Preliminary Determinations (Oregon Administrative Rule (OAR) 690-310-0080)

1. The application proposes the diversion of 29.9 cubic feet per second (CFS) of water from Columbia River, tributary to Pacific Ocean, for municipal use October 1 to April 14 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Municipal use is an allowable use under the Columbia River Basin Program (OAR 690-519-0000).
4. An assessment of surface-water availability has been completed utilizing discharge data produced by the U.S. Geological Survey, a copy of which is in the file. The assessment determined that water is available for further appropriation during the full season requested.
5. OAR 690-033-0120(2)(a) prohibits the diversion of water from April 15 through September 30 each year.
6. The proposed use is not located within or above any state scenic waterway.
7. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright. ORS 537.621(3)(b); OAR 690-310-0150(2)(b)

8. Because this application will have an impact on surface water flows where the Oregon Department of Fish and Wildlife (ODFW) has identified that sensitive, threatened or endangered fish are present, this application will be reviewed by at least ODFW and the Department of Environmental Quality in accordance with OAR 690-033 rules. This review could have an impact on the eventual outcome of your application. This review could cause your application to be proposed for denial, the season of use to be shortened or impacted in some other way when the Department issues a proposed final order at the next stage of processing.
9. The Department Transfer and Conservation Section reviewed the application per OAR 690-086 guidelines and found that insufficient information was provided. Please refer to the **Additional Information Required** section, below for deficiencies with the application.

Summary

The diversion of 29.9 CFS of water from Columbia River, tributary to Pacific Ocean, for municipal use may be allowable October 1 to April 14 of each year, contingent upon providing additional required information.

Because of the favorable determinations described herein, Application S-88507 can move to the next phase of the water-rights application review process, which includes a public interest review.

Public interest issues and/or public comments will be addressed as the Department prepares a Proposed Final Order. If significant public interest issues are identified, they could have an impact on the eventual outcome of the application.

The Department has rules (OAR 690-033) that establish additional procedures and standards to aid the Department in determining whether a proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened, or endangered fish species. This Initial Review does not address the potential impact that your proposed use may have on these species.

Your application will undergo additional review from numerous federal, state, local, and tribal governmental entities. This review may cause your application to be limited, conditioned, or denied. Depending on the proposed use, you may be able to mitigate for potential impacts identified in the review.

Mitigation is often complicated, time consuming, and expensive, and may include, but is not limited to, actions such as replacing the proposed amount of water within the impacted reach through purchasing or transferring another water right. Following the Initial Review, you will be notified if mitigation is required. If you choose to pursue mitigation, you will likely need to place your application on administrative hold in order to explore options.

Additional Information Required

Additional information for the Division 86 review is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following information:

1. Present transient service population;

2. A list of present water rights and permits held in the service area;
3. Rationale for the need for 29.9 CFS of water and an explanation of how the irrigation season of 169 days and 26.9 CFS of water were calculated (see the Division 86 Memo, included)
4. Justification for the additional 75 days of use.

Please submit the requested information listed above no later than **Thursday, October 4, 2018**. If we do not receive the items listed above by this date, the Department may reject the application and may refund fees.

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 fee per application). You must notify the Department in writing by **September 14, 2018**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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. Consistent with ORS 537.248(1), you are not required to submit engineering plans and specifications before a permit is issued, if one is issued. However, you may not begin construction of the reservoir until the Department approves the engineering plans and specifications.
3. **Measurement Devices and Recording/Reporting of Annual Water Storage 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.

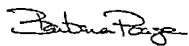
4. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

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.

If you have any questions:

Feel free to contact me at Barbara.J.Poage@oregon.gov or 503-986-0859 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: Barbara Poage, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Barbara Poage
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
OWRD Division 86 Review Memo
S-88507
WAB: no WAB

APPLICATION FACT SHEET

Application File Number: S-88507

Applicant: PORT OF MORROW

County: UMATILLA/MORROW

Watermaster: GREG SILBERNAGEL, 5, NCR

Priority Date: JANUARY 29, 2018

Source: COLUMBIA RIVER, TRIBUTARY TO PACIFIC OCEAN

Purpose: MUNICIPAL USES

Volume: 29.9 CUBIC FEET PER SECOND

Basin Name & Number: UMATILLA, #7

WAB: N/A

Points of Diversion:

POD Name	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
POD 1	5 N	25 E	WM	35	SW SE	80 FEET NORTH AND 2480 FEET WEST FROM SE CORNER, SECTION 35
CID POD 2	4 N	25 E	WM	2	NE NW	SOUTH 86 DEGREES 22 MINUTES 46 SECONDS WEST, 2829 FEET FROM NE CORNER, SECTION 2
POM RIVER STATION POD 3	4 N	25 E	WM	2	SE NW	1438 SOUTH AND 3903 FEET WEST FROM THE SE CORNER, SECTION 35

Place of Use: WITHIN THE BOUNDARIES OF PORT OF MORROW SERVICE AREA

PUBLIC NOTICE DATE: September 4, 2018

14 DAY STOP PROCESSING DEADLINE DATE: September 14, 2018

30 DAY COMMENT DEADLINE DATE: October 4, 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 notification to withdraw Water Right Application **S-88507**.
- 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 processing fee) be returned.
- This notice must be received at Water Resources Department by:

September 14, 2018

- Return the notice to:

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