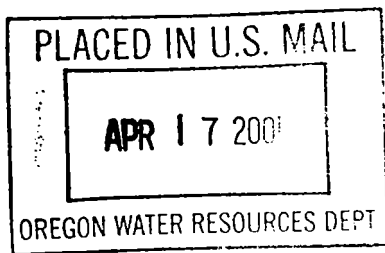


Oregon Water Resources Department
Water Rights Division



Water Rights Application
Number G-15257

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On December 6, 2000, JANET T HADDOCK submitted an application to the Department for the following water use permit:

- Amount of Water: 0.063 CUBIC FOOT PER SECOND
- Use of Water: IRRIGATION OF 5.0 ACRES
- Source of Water: A WELL, A TRIBUTARY OF STEWART CREEK
- Area of Proposed Use: within UMATILLA County as follows:

LOT 17 4.35 ACRES

LOT 18 0.65 ACRE

SECTION 19

TOWNSHIP 1 SOUTH, RANGE 33 EAST, W.M.

On 2/23/01, the Department mailed the applicant notice of its Initial Review, determining that "the use of 0.063 CUBIC FOOT PER SECOND from A WELL, A TRIBUTARY OF STEWART CREEK for IRRIGATION OF 5.0 ACRES may be allowed from March 1 through October 31 of each year. The applicant did not notify the Department to stop processing the application within 14 days of that date.

On 3/13/01, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- comments by or consultation with another state agency
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- designations of any critical groundwater areas
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any general basin-wide standard for flow rate and duty of water allowed
- the need for a flow rate and duty higher than the general standard
- any comments received

Findings of Fact

The Umatilla Basin Program allows the following uses: IRRIGATION OF 5.0 ACRES

The proposed source is a basalt well located within a 5 mile radius of the City of Pilot Rock. Groundwater use from the basalt reservoir within 5 miles of City of Pilot Rock could be limited to municipal uses, group domestic uses, or statutorily exempt groundwater uses only if City of Pilot Rock has an approved water management and conservation plan in effect. The findings of this Proposed Final Order are subject to change if a water management and conservation plan is approved by the Water Resources Department for the City of Pilot Rock before the protest filing deadline passes. The protest period ends 45 days after the issuance of the proposed final order. (OAR 690-507)

Senior water rights exist on A WELL, A TRIBUTARY OF STEWART CREEK or on downstream waters.

A WELL, A TRIBUTARY OF STEWART CREEK is not within or above a State Scenic Waterway.

An assessment of groundwater availability has been completed by the Department's Groundwater Section, who determined that groundwater for the proposed use will, if properly conditioned, avoid injury to existing rights or to the groundwater resource.

The Department finds that no more than 0.063 CFS would be necessary for the proposed use. The amount of water requested, 0.063 CUBIC FOOT PER SECOND, is an acceptable rate.

The proposed well is not within a designated critical ground water area.

The Department's Groundwater Section has determined, based upon OAR 690-09, that the proposed groundwater use will, if properly conditioned, adequately protect the surface water from interference.

The Groundwater Section finds, per OAR 390.835(9), there **is NOT** a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife.

Conclusions of Law

Under the provisions of ORS 537.621, the Department must presume that a proposed use will ensure the preservation of the public welfare, safety and health if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Umatilla Basin Plan.

No preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

No proposed flow rate and duty of water higher than the general basin-wide standard is needed.

For these reasons, the required presumption has been established.

Under the provisions of ORS 537.621, once the presumption has been established, it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected.

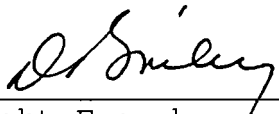
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use would impair or be detrimental to the public interest.

The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use would ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED April 17, 2001



Dwight French
Water Rights Section Manager

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protest Rights and Standing

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the \$200 protest fee required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.

Requests for Standing

Under the provisions of 537.621(6), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$150.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than **June 1, 2001**.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and if

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

This document was prepared by Cory Engel. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me toll free within Oregon at 1-800-624-3199 extension 324. Outside of Oregon you can dial 1-503-378-8455.

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Renee Moulun. Her extension number is 239.

If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 201.

Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 158 12th ST NE SALEM, OR 97310
Fax: (503)378-2496 .

DRAFT

This is not a permit!!!
STATE OF OREGON

DRAFT

COUNTY OF UMATILLA

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

JANET T HADDOCK
PO BOX 974
PILOT ROCK, OREGON 97868

541-443-2920

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-15257

SOURCE OF WATER: A WELL, A TRIBUTARY OF STEWART CREEK

PURPOSE OR USE: IRRIGATION OF 5.0 ACRES

MAXIMUM RATE: 0.063 CFS

PERIOD OF USE: MARCH 1 THROUGH OCTOBER 31 OF EACH YEAR

DATE OF PRIORITY: December 6, 2000

POINT OF DIVERSION LOCATION: LOT 17, SECTION 19, T1S, R33E, W.M.; SOUTH 65° 51' 25", EAST 1126.53 FEET FROM THE W1/4 CORNER OF SECTION 19

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

LOT 17 4.35 ACRES
LOT 18 0.65 ACRE
SECTION 19
TOWNSHIP 1 SOUTH, RANGE 33 EAST, 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.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

STANDARD CONDITIONS

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

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 shall be limited when it interferes with any prior surface or ground water rights.

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.

Complete application of the water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2001

DRAFT - THIS IS NOT A PERMIT

Paul R. Cleary, Director
Water Resources Department

Mailing List for PFO Copies

Application #G-15257

PFO Date April 17, 2001

Original mailed to:

/ Applicant: JANET T HADDOCK, PO BOX 974, PILOT ROCK, OREGON 97868

Copies sent to:

/ 1. WRD - File # G-15257

PFO, Map, and Fact Sheet Copies sent to:

- / 2. WRD - Watermaster # District 5 4/11/01
- / 3. WRD - Regional Manager (not Bob Main): *NCR*
- / 4. ODA: MIKE WOLF

Copies Mailed
By: <i>Jg</i>
(SUPPORT STAFF)
on: <i>4/17/01</i>
(DATE)

Copies sent to Other Interested Persons (*CWRE, Agent, Well Driller, Commenter, etc.*)

/ 5. CITY OF PILOT ROCK, PO BOX 130, PILOT ROCK, OREGON 97868

/ 6. DAVID L HADDOCK, PO BOX 1574, PENDLETON OR 97801

7. _____

8. _____

9. _____

10. _____

11. _____

12. _____

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

1. _____

2. _____

3. _____

PFO CHECKLISTApplication #: 6 15257Basin: 7

WID: _____

County UMAT Township _____ Range _____ Section _____ 1/4 1/4 _____

- ☒ 1. Is the file complete by the Minimum Requirements Checklist? Y / N
- ☒ 2. Shortcomings (items needed before a permit and/or FO can be issued) Y / N
Check file for indicators that the process **should not** continue until a later date (ie - protest, letter to file indicating hold, or other)
- ☒ 3. Groundwater Review A B (C) D River/Stream Name _____ Conditions 7B
☒ a. Groundwater Availability A B (C)
☒ b. Is second groundwater review necessary? (comments) Y / N
☒ c. Is HB 1033 review complete? Y / N
☒ d. Is the well located in a GWLA or CA? (If applicable, include map with POD) Y / N
- ☒ 4. Is use from a B.O.R. or Douglas County project? Y / N Contract in file? Y / N Contract # _____
- ☒ 5. Is the use allowed by the Basin Program? Y / N Limited? Y / N _____
- ☒ 6. Water Availability Data OK / REDONE / NA (50% before July 17, 1992; 80% live flow & 50% storage after July 17, 1992)
- ☒ 7. Is the source withdrawn or limited by statute or Department withdrawal order? Y / N _____
- ☒ 8. Is the Proposed Use located in or above a Scenic Waterway? Y / N _____
- ☒ 9. Division 33: Above Bonn (after July 17, 1992) Y / N / NA
Below Bonn (after April 8, 1994; June 3, 1994) Y / N / NA
Statewide - (in shaded areas on T, E, and S Map - after June 3, 1994) Y / N / NA
- ☒ 10. Per the IR, is the Proposed Source on the DEQ 303d List? Y / N If so, any comments received? Y / N
Is the Proposed Use in an existing or draft Dept of Ag. Water Quality Management Plan Area? Y / N
- ☒ 11. Have conflicts been addressed? Y / N NA
- ☒ 12. Rate 180 Duty 3 Irrigation Season 3/1 - 10/31
- ☒ 13. Period of Allowed Use 3/1 - 10/31 (LIMITED FROM 4/12)
- ☒ 14. Allowed Rate of Use .063
- ☒ 15. Is the use Small (≤ 0.1 cfs, ≤ 9.2 AF), **Medium** (> 0.1 or < 1.5 cfs, > 9.2 or < 100 AF) or **Large** (≥ 1.5 cfs, ≥ 100 AF)?
If the use is Municipal and ≤ 0.1 CFS, use **Large** condition.
- ☒ 16. Conditions 7B
Is the proposed use within the New River Basin? Y / N If yes, include New River Agreement Conditions.
- ☒ 17. IR Public Notice Date 2/23/01
3/13/01 Comments Received? Y / N
- ☒ 18. Was the application filed on or after October 23, 1999? Y / N If yes, then no A date.
- ☐ 19. Final Report Checklist
☐ Documents used in determination are attached to this checklist and highlighted
☐ Fill out PFO CC List (don't forget to check for other property owners)
☐ a. Re-notify Water Availability? (Rate, Duty and Period of Allowed Use changes) Y / N
☐ b. Check Watermaster Dist. on the CC list and draft permit.
☐ Spell Check and Accuracy Check
☐ Final PFO report hard copy check (format, margins, etc.)
☐ Final PFO has been saved to m:\groups\wr\pfo\done\week#\application #

Name: Cony EngelDate: 11 APR 01