



Oregon

Kate Brown, Governor

Water Resources Department

725 Summer St NE, Suite A

Salem, OR 97301

(503) 986-0900

Fax (503) 986-0904

Water Right Application Initial Review

April 12, 2019

DANIEL E. SCHAFER
DEBORAH SCHAFER
910 SOUTH FRONT ST
CENTRAL POINT OR 97502

Reference: Application S-88757

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 0.005 cubic foot per second (CFS) of water from Tenmile Lake, tributary to Tenmile Creek, for year-round domestic use for one household.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Domestic use is an allowable use under the South Coast Basin Program (690-517-0000).
4. An assessment of water availability has been completed. This assessment compared a calculation of natural streamflow minus the consumptive portion of all relevant rights of record. A copy of this assessment is in the file. This assessment determined water is not available for further appropriation (at 80 percent exceedance probability) for domestic use / human consumption use due to senior water rights. However, water is available for a limited number of individual rights under a settlement agreement between the Oregon Department of Fish and Wildlife, Coos Bay North Bend Water Board, and Tenmile Lake Homeowners Association. That agreement provided for 740 additional human consumption rights at a maximum diversion rate of 0.005 CFS per household. **Therefore, water is available if limited to human consumption use (indoor use only: cooking, drinking, sanitation), not to exceed 500 gallons per day per household.**
5. The proposed use is not located within or above any state scenic waterway.
6. Documentation has been submitted from the relevant land-use planning jurisdiction that indicates the proposed use is allowed outright.

Summary

The diversion 0.005 CFS of water, further limited to 500 gallons per day, from Tenmile Lake, a tributary of Tenmile Creek, for year-round human consumption (indoor use only: cooking, drinking, sanitation) for one household is allowable.

Because of the favorable determinations described herein, Application S-88757 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.

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 **April 26, 2019**. 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. Measurement Devices and Recording/Reporting of Annual Water Use 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.
3. 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.

If you have any questions:

Feel free to contact me at scott.a.grew@oregon.gov or 503-986-0899 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: Scott Grew, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Scott Grew
Water Right Application Specialist
Oregon Water Resources Department

Enclosures: Application Process Description and Stop Processing Request Form
S-88757
WAB: 31730401

APPLICATION FACT SHEET

Application File Number: S-88757

Applicant: DANIEL E. SCHAFER AND DEBORAH SCHAFER

County: COOS

Watermaster: GREG WACKER, 19, SWR

Priority Date: MARCH 13, 2019

Source: TENMILE LAKE, TRIBUTARY TO TENMILE CREEK

Purpose: DOMESTIC USE FOR ONE HOUSEHOLD

Rate: 0.005 CUBIC FOOT PER SECOND

Basin Name & Number: SOUTH COAST, # 17

WAB: TENMILE CR > PACIFIC OCEAN - AB EEL CR

Point of Diversion:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
23 S	12 W	WM	17	NW SE	NORTH 15 DEGREES 51 MINUTES 16 SECONDS WEST, 314 FEET FROM SE 1/16 CORNER, SECTION 17

Place of Use:

Twp	Rng	Mer	Sec	Q-Q
23 S	12 W	WM	17	NW SE

PUBLIC NOTICE DATE: April 16, 2019

14 DAY STOP PROCESSING DEADLINE DATE: April 26, 2019

30 DAY COMMENT DEADLINE DATE: May 16, 2019

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-88757**.
- 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:

April 26, 2019

- Return the notice to:

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

Mailing List for IR Copies

Application S-88757

IR Date: April 12, 2019

Original and map mailed to applicant:

DANIEL E. SCHAFER
DEBORAH SCHAFER
910 SOUTH FRONT ST
CENTRAL POINT OR 97502

SENT VIA AUTO EMAIL:

1. WRD – Watermaster Greg Wacker # 19
2. ODFW
3. DEQ

Copies sent to:

4. CWRE – Jerry Lee Estabrook ,PO Box 574, Lakeside, OR 97449
5. WRD – SW Section
6. WRD - File S-88757

Application Processor: Scott Grew

Copies Mailed

By: _____
(SUPPORT STAFF)

On: _____
(DATE)