Oregon Water Resources Department Water Right Services Division

Water Right Application S-88296 in the name of BRAELEE BIRTCH)	FINAL ORDER
)	

Summary: Order approving Application S-88296 and issuing Permit S-55221.

Authority

The application is being processed in accordance with Oregon Revised Statute (ORS) 537.153 through 537.175, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 33, 300, 310, 400, 410, and the Umpqua Basin Program OAR 690-516. These statutes and rules can be viewed on following website: https://www.oregon.gov/OWRD/programs/policylawandrules/Pages.default.aspx

The Department's main page is http://www.oregon.gov/OWRD

This Final Order is issued pursuant to ORS 537.170(6) to (9) and OAR 690-310-0170 to 0190.

FINDINGS OF FACT

- 1. On September 30, 2016, submitted an application to the Department for a water use permit.
- 2. On September 11, 2018, the Department issued a Proposed Final Order recommending approval of the application. The protest period closed October 26, 2018, and no protest was filed.
- 3. The findings of fact in the Proposed Final Order are incorporated herein, with the following modifications:
 - A. The Water Use Measurement, Recording, and Reporting Condition has been modified to include an in-line flow restrictor only.
 - B. The Place of Use to also include the quarter-quarters NE SE and NW SE.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 536.075 and ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to OAR 137-004-0080 you may petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

HEARING RIGHTS

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed. Only the applicant or protestant may appeal this order. (ORS 537.170(7)(b).

- C. The standard conditions described in the Draft Permit have been modified to no longer include the following conditions:
 - a. 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.
 - b. 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.

CONCLUSIONS OF LAW

- 1. The conclusions of law in the Proposed Final Order are incorporated herein with the above modifications.
- 2. The proposed use, as conditioned, would not impair or be detrimental to the public interest.

NOTE: When issuing permits, ORS 537.170(6) authorizes the Department to include provisions or restrictions concerning the use, control and management of the water to be appropriated for the project.

ORDER

Application S-88296 is approved and Permit S-55221 is issued.

DATED

JUL 2 5 2019

Dwight French

Water Right Services Division Administrator, for

Thomas M. Byler, Director

Oregon Water Resources Department

- If you have any questions about statements contained in this document, please contact Lisa Graham at Elisabeth.A.Graham@oregon.gov or 503-986-0808.
- If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503 986-0900.