

Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number R-86769

*Notice of a Right to a Hearing*

Pursuant to ORS 537.409(8) you have the right to a hearing before the Oregon Water Resources Department to contest this order. The hearing, if requested, will be conducted according to ORS chapter 183 and the applicable administrative rules. If you want a hearing you must submit a request in writing to the Department within 30 days of the date of this proposed order. To be timely a request must be received by the Department within the 30 day request period. If a request for a hearing is not received by the Department within the time allowed, you will have waived the right to a contested case hearing.

A request for a hearing must include:

- Your name, address, and telephone number;
- A statement that you are requesting a hearing;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency.

If you request a hearing, the Department will notify you of the time and place of the hearing. The Department will give you information on the procedures and other rights of parties relating to the conduct of the hearing before the hearing. You may be represented by counsel at the hearing.

If you do not request a hearing within 30 days of the date of this order or if you withdraw a request for a hearing, or request a hearing and then notify the Department that you will not appear or fail to appear at a scheduled hearing, the Director may issue a final order by default denying your application. If the Director issues a final order by default, the Department designates its file on this matter as the record.

**Final Order**

*Application History*

On February 13, 2007, DANIEL DAVIS submitted an application to the Department for a water use permit. Pursuant to ORS 537.409, the Department provided public notice of the application in the Department's weekly public notice. A 60 day comment period followed. The Department has not received adverse comments related to the possible approval of Application R-86769.

Water is available for the proposed use May 1 through July 31 and the month of October.

The Department has received comments from Oregon Department of Fish and Wildlife indicating that the proposed use poses a significant detrimental impact to an existing fishery resource, and that conditions can be applied to mitigate the detrimental impact. The condition recommended was capturing only water obtained from precipitation; otherwise only divert water when instream water rights and other senior water rights would not be injured.

The local watermaster, Mitch Lewis, determined that the proposed reservoir will have potential injury to existing water rights, and that conditions cannot be applied to mitigate the potential injury.

Therefore, the proposed use as described in Application R-86769 would either injure existing water rights, poses potential detrimental impacts to existing fishery resources, or both, pursuant to ORS 537.409(6).

**Order**

Application R-86769 therefore is denied.

DATED June 7, 2007

 for

Phillip C. Ward, Director  
Water Resources Department

*This document was prepared by Jeana Eastman. 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 at 503-986-0859.*

*If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.*

*If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.*

*Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.*