# Oregon Water Resources Department Water Right Services Division

Water Right Application G-18998 in the name	)	
of TREVOR DERSTINE and REGINA DERSTINE	)	SUPERSEDING FINAL ORDER
	)	

Summary: Order approving Application G-18998 and issuing a draft permit.

### Authority

The application was processed in accordance with Oregon Revised Statute (ORS) 537.615 through 537.628, and 390.826, and Oregon Administrative Rule (OAR) Chapter 690, Divisions 5, 8, 9, 33, 300, 310, 400, 410 and the Deschutes Basin Program (OAR 692-505). These statutes and rules can be viewed on the following website: https://www.oregon.gov/OWRD/programs/policylawandrules/Pages/default.aspx.

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

This Final Order is issued pursuant to ORS 537.625 and OAR 690-310-0200.

## FINDINGS OF FACT

- 1. On June 22, 2020, Trevor Derstine and Regina Derstine submitted an application to the Department for a water use permit.
- 2. On June 29, 2021, the Department issued a Proposed Final Order recommending approval of the application. The protest period closed August 13, 2021, and no protest was filed.
- 3. The findings of fact in the Proposed Final Order are incorporated herein.
- 4. As required by OAR 690-505-0615, the applicant must submit mitigation that meets the requirements of OAR 690-505-0610(2)-(5). Pursuant to OAR 690-505-0620, a permit shall not be issued until the applicant provides documentary evidence that mitigation water, in an amount satisfying the mitigation obligation, is legally protected instream.
- 5. On October 1, 2021, the Department issued a Final Order approving Application G-18279 and a draft permit. Issuing a permit was contingent on the applicant submitting documentary evidence that mitigation had been obtained.

#### 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.

- 6. On March 16, 2022, the applicant's agent submitted documentary evidence that 24.0 mitigation credits had been obtained. The agent amended the rate and annual volume requested in the application to 1.0 cubic foot per second, further limited to 48.0 acre-feet annually. The rate and volume have been amended in the attached permit.
- 7. The amended mitigation obligation for the proposed use is 24.0 acre-feet, which must be provided in the General Zone of Impact (located anywhere in the Deschutes Basin above the Madras gage, which is located on the Deschutes River below Lake Billy Chinook).
- 8. The applicant has submitted documentary evidence that satisfactory mitigation has been obtained.

## **CONCLUSIONS OF LAW**

- 1. The conclusions of law in the Proposed Final Order are incorporated herein.
- 2. The proposed use, as conditioned, would ensure the preservation of the public welfare, safety and health.

NOTE: When issuing permits, ORS 537.628(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public welfare, safety and health.

## **ORDER**

Application G-18998 is approved and Permit G-18755 is issued.

DATED

APR 0.1 2022

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 Kim French at Kim.R.French@oregon.gov or 503-979-3168.
- 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.