

Final Order

Application History

On August 8, 1989, the Oregon Department of Fish and Wildlife and the Department of Parks and Recreation submitted an application to the Department for an instream water right. On August 27, 1996, the Department issued a Proposed Final Order proposing to issue the certificate with conditions. The amount requested in the application exceeds the estimated average natural flow. Pursuant to OAR 690-077-0015(4) the amounts allowed during any time period were reduced to amounts not exceeding the estimated average natural flow occurring from the drainage basin.

On October 11, 1996, attorney David C. Moon, on behalf of Evan and Tillie Zimmerman submitted a protest to the Proposed Final Order. The department evaluated the protest to determine if it provided a preponderance of evidence showing that the public interest presumption was overcome, pursuant to OAR 690-077-0037 and 690-077-0047(1). The Department finds that the public interest presumption is not overcome because the protestant has not provided a preponderance of evidence showing that:

- (a) One or more of the four public interest presumption criteria listed in OAR 690-077-0033(1)(a)-(d) are not met;
- (b) The proposed use may impair or be detrimental to the public interest according to standards described in ORS 537.170(8), including:
 - (A) The specific public interest under ORS 537.170(8) that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified public interest would be impaired or detrimentally affected. OAR 690-077-0037(4).

The findings of fact and conclusions of law in the Proposed Final Order are incorporated into this Final Order.

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

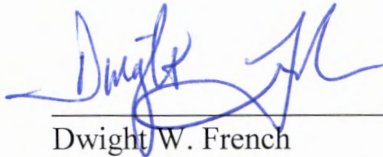
This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or 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.

The proposed use would not impair or be detrimental to the public interest.

Order

IT IS HEREBY ORDERED that Application IS 70021 be approved as provided in the attached certificate.

Issued **SEP 13 2022**



Dwight W. French
Water Right Services Administrator, for
Phillip C. Ward
Director