



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
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Salem, OR 97301-1271
503-986-0900
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September 19, 2005

Preston, Gates & Ellis LLP
Attn: Jeffrey W. Ring
222 SW Columbia St.
Suite 1400
Portland, OR 97201-6632

Dear Mr. Ring,

The following is a "what if" water availability scenario prepared by Ken Stahr (OWRD) this morning. This report assumes that water right applications S-73406 and R-73408 are withdrawn immediately upon possible future approval of the Rock Creek reservation to be requested by the City of Lincoln City pursuant to the September 8, 2005 Supplemental Settlement Agreement. Under this "what if" scenario, 374 acre-feet of water are available for further appropriation on Rock Creek, tributary to Devils Lake.

DETAILED REPORT ON THE WATER AVAILABILITY CALCULATION

Water Availability as of 9/19/2005 for

ROCK CR > DEVILS L - AT MOUTH

Watershed ID #: 72004

Basin: MID COAST

Exceedance Level: 50

Time: 12:12

Date: 09/19/2005

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	CU + Stor After 1/1/93	Expected Stream Flow	Reserved Stream Flow	Instream Water Rights	Net Water Available
1	42.40	0.01	0.00	42.40	0.00	40.00	2.39
2	35.20	0.01	0.00	35.20	0.00	36.20	-1.01
3	34.60	0.01	0.00	34.60	0.00	35.60	-1.01
4	25.20	0.01	0.00	25.20	0.00	26.20	-1.01
5	15.60	0.02	0.00	15.60	0.00	16.60	-1.02
6	11.10	0.04	0.00	11.10	0.00	12.10	-1.04
7	8.49	0.09	0.00	8.40	0.00	9.54	-1.14
8	6.71	0.07	0.00	6.64	0.00	7.79	-1.15
9	6.70	0.02	0.00	6.68	0.00	7.78	-1.10
10	6.46	0.01	0.00	6.45	0.00	7.52	-1.07
11	24.30	0.01	0.00	24.30	0.00	25.30	-1.01
12	43.70	0.01	0.00	43.70	0.00	40.00	3.69
Stor	15700	19	0	15700	0	15900	374

If you have any questions, please call Mike Reynolds at 503-986-0820.

Sincerely,

Michael J. Reynolds
Protest Program Coordinator

537.356 Request for reservation of unappropriated water for future economic development; priority date of reservation. (1) Any local government, local watershed council or state agency or any other individual cooperating jointly with a local government, local watershed council or state agency may request the Water Resources Commission to reserve unappropriated water for multipurpose storage for future economic development.

(2) A request under subsection (1) of this section shall be in writing on a form provided by the Water Resources Department. Before deciding whether to approve the request and initiate a rulemaking process, the commission shall request comments from any local government or watershed council within the geographic area or basin affected by the request. The comment period shall be closed not later than 120 days after the request is submitted.

(3) The priority date for any reservation established under this section shall be the date on which the commission takes action to initiate the rulemaking process. [1987 c.859 §13; 1997 c.445 §1]

537.358 Rules for reservation for future economic development; application for use of reserved water. (1) In adopting a rule under ORS 537.356 to reserve unappropriated water for multipurpose storage for future economic development, the Water Resources Commission shall include a public interest review that takes into consideration the factors described under ORS 537.170.

(2) A person requesting use of the reserved water for new storage shall submit a water right application and comply with the procedure set forth in ORS 537.140 to 537.252, except that the priority date for a storage right approved for use of reserved water shall be the date of the reservation. The commission by rule may describe a process for ensuring that the proposed use is consistent with the requirements of the rule establishing the reservation. [1987 c.859 §14; 1997 c.445 §2]