

November 22, 2010

Mr. R. Craig Kohanek  
Oregon Water Resources Department  
725 Summer St. N.E. Suite A  
Salem, OR 97301-1271

Re: Request for Exception of Surface Water Appropriation to OAR 0110 (1)(a) pursuant  
to ORS 536.295

Dear Mr. Kohanek,

I am writing on behalf of Opal Creek Ancient Forest Center to seek an exception to OAR 690-502-0110 (1)(a) which classifies the use of surface water resources in the Santiam River – Calapooia River Sub basin of the Willamette River basin from the Oregon Water Resources Commission, pursuant to ORS 536.295, so that we may apply to use surface water for a non-consumptive hydropower use. We seek to operate a Minor Hydroelectric Project (less than 100 theoretical horsepower) as the primary source of electricity at the Opal Creek Ancient Forest Center.

Opal Creek Ancient Forest Center is a non-profit established in 1989 as Friends of Opal Creek with a mission to preserve the ancient forest. That mission was achieved in 1996 and our organization turned our efforts toward education. Our current mission is to promote ancient forest stewardship through educational experiences inspired by Opal Creek's natural and cultural history. We operate a host of programs at Jawbone Flats, working with over 2000 participants annually. Due to our remote location, there is no option to receive electricity from an electric utility and it is not practical for us to generate all of our electricity needs from photovoltaic sources. We are requesting this exception for hydropower water use in order to continue to operate as an environmental educational center.

As you know, the Oregon Water Resources Commission may allow the Water Resources Department to consider an application to appropriate water for a use not classified in the applicable basin program if that use is largely non-consumptive in nature and not likely to be regulated for other water rights, pursuant to ORS 536.295(c). Our proposed use meets that criterion because the hydroelectric project will be entirely non-consumptive in use and no other water rights would be impacted by our proposed use as next discussed. The surface water for the hydropower use will be captured at the point of diversion on Flume Creek and transported to our powerhouse via PVC pipe. After passing through the powerhouse, all of the water will be

returned to the Little Santiam River immediately above the confluence of Opal Creek and Battle Ax Creek, which is the just upstream of the Little North Santiam River's designated state scenic waterway reach. There are no other water rights between our point of diversion and the return point, so our hydropower use would not need to be regulated for other water rights.

ORS 536.295(f) also allows consideration of an exception if the use will provide a public benefit. Since our use of water for hydropower will provide the vast majority of the electricity that supplies Opal Creek Ancient Forest Center's environmental education programs that provide education to hundreds of Oregon school students every year, our hydroelectric use will provide a public benefit and also satisfies this criterion for an exception.

Therefore, we request the Oregon Water Resources Commission approve an exception to OAR 690-502-0110(1)(a) that would allow us to apply to WRD to use water for hydropower purposes on a year-round basis so the Opal Creek Ancient Forest Center can continue its educational mission.

Thank you for your consideration. Please contact me with any questions that you may have.

Sincerely,

Katie Ryan, Executive Director

[kryan@opalcreek.org](mailto:kryan@opalcreek.org)

541-350-9110