

April 19, 1993

Devils Lake Water Improvement District
Attn: Karl Ordelheide, Chairperson
P.O. Box 974
Lincoln City, OR 97367

WATER
RESOURCES
DEPARTMENT

Reference: File Number: R-71703 and 71813

Dear Mr. Ordelheide:

This letter informs you of the current status of your application for a water use permit and accompanies the Satisfactory Report of Technical Review For Water Use Permit(s). We apologize for the delay in transmitting this information and Report to you and for any inconvenience the wait may have caused you.

The enclosed Report of Technical Review is the Department's summary of a specialized analysis of various legal and scientific aspects of your application and proposed water use. We are required by the state of Oregon's administrative rules (in OAR 690-11-160) to conduct this official technical review of each application submitted to the Oregon Water Resources Department for a water use permit. This process was designed to insure that your application receives a fair evaluation and to secure protection of existing water rights and of the public at large.

AS THE RESULT OF OUR TECHNICAL EVALUATION OF YOUR APPLICATION, WE HAVE DETERMINED THAT YOUR APPLICATION SATISFIES THE REQUIREMENTS OF THE TECHNICAL REVIEW.

The Department will now move your application to the next phase of processing. This phase includes a public interest review of your proposed water use. No final action may be taken on your application until the public interest review is completed.

You should also note that the Report of Technical Review describes conditions currently anticipated which may limit the water use proposed in your application.

If you wish to object to any of the analyses contained in the Report, you must submit your objection to the Department in writing within 60 days of the date of mailing of this Report or by the date specified below. Your objection must allege that the technical review is defective and you may also submit evidence which demonstrates that your proposed water use will not impair or be detrimental to the public interest.



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

Copies of the Report of Technical Review will be distributed to all persons who have filed comments or otherwise expressed an interest in the water use proposed in your application. Interested parties must also submit their objections within the prescribed objection period. Those objections must allege that the technical review is defective and/or that the proposed water use may impair or be detrimental to the public interest.

If an objection contains allegations that the technical review is defective, it must be accompanied by facts which support such allegations. If an objection contains allegations that the proposed water use may impair or be detrimental to the public interest, the objection must specify the particular public interest standards which apply as set out in Oregon Revised Statutes (ORS 537.170(5)) and Oregon Administrative Rules (OAR 690-11-195) and state facts showing how such standards would be violated.

All evidence and objections must be received by our Salem office **no later than 5:00 p.m. on or before JUNE 29, 1993**, or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

If objections and evidence are submitted on or before the above time and date, the Director of the Water Resources Department will evaluate each issue raised in the objections and either accept or deny them. Objectors are encouraged to indicate whether they would be interested in resolving their concerns through alternative dispute resolution.

If any of the objections are denied, the objector will be allowed thirty days to submit a protest to the denial. The protest must meet the standards set forth in OAR 690-02-030 through 080.

If you have any questions, please feel free to telephone me or any of the Department's Water Rights Section staff. My telephone number is 378-3739, in Salem, or you may call toll free from within the state to 1-800-624-3199.

Sincerely,



CAROL LEWIS SPENCE
SENIOR WATER RIGHTS SPECIALIST

ENCL(S) 2

cc: ODFW

WATERWATCH

DAVE JARRETT, WATERMASTER #16

TOM PAUL, REGION MANAGER

JIM DENISON, C.W.R.E.



Report Date: 4/19/93 *cep*

OREGON WATER RESOURCES DEPARTMENT

SATISFACTORY REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE JUNE 29, 1993.

APPLICATION FILE NUMBER - R 71703

Applicant name/address/county/phone:

DEVILS LAKE WATER IMPROVEMENT DISTRICT
PO BOX 974
LINCOLN CITY, OR 97367
LINCOLN COUNTY 503-994-5330

Date application received for filing and/or tentative date of priority: JUNE 18, 1991

SOURCE: D RIVER TRIBUTARY TO: PACIFIC OCEAN

Purpose and/or use: STORAGE OF WATER FOR RECREATION AND IMPROVEMENT OF WATER QUALITY.

Quantity: 1360 acre-feet

Point of Diversion Location:

T 7 S, R 11 W, W.M., SECTION 15

Place of use:

W 1/2, SECTION 1
E 1/2, SECTION 2
E 1/2, SECTION 11
W 1/2 NW 1/4, SECTION 12
N 1/2, SECTION 14
SE 1/4 NE 1/4, SECTION 15
TOWNSHIP 7 SOUTH, RANGE 11 WEST, W.M.

SURFACE WATER AVAILABILITY

This is an application for use of surface water.

The D River has not been designated as a scenic waterway and is not upstream from a stream or a tributary to a stream or river which has been so designated.

The following tabulation delineates the flow of surface water available from the D River for appropriation for the months of each year in CFS near the mouth, SE 1/4 NE 1/4, Section 15, T7S, R11W, W.M.

| <u>JAN</u> | <u>FEB</u> | <u>MAR</u> | <u>APR</u> | <u>MAY</u> | <u>JUN</u> | <u>JUL</u> | <u>AUG</u> | <u>SEP</u> | <u>OCT</u> | <u>NOV</u> | <u>DEC</u> | |
|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------|
| 125 | 121 | 85 | 49 | 23 | 10 | 3.2 | 0.4 | 0.9 | 10 | 55 | 123 | STAT |
| - | - | - | - | - | - | - | - | - | - | - | - | ISWR* |
| 125 | 121 | 85 | 49 | 23 | 10 | 3.2 | 0.4 | 0.9 | 10 | 55 | 123 | AVL** |

*Instream Water Right - none.

**Water Available

The flow data is figured by statistical approximation.

These flows represent the amount of water which is likely available in excess of needs for all existing rights (including Instream Water Rights of record and Scenic Waterway Flow requirements) 50% of the time during each monthly period.

CONFLICTS WITH OTHER WATER RIGHTS:

There are existing rights from this point of diversion. See proposed permit conditions.

There are existing water rights appurtenant to the lands described in the application. See proposed permit conditions.

REPORT CONCLUSIONS:

Water in the amount of **1,360 acre-feet** is likely available for **12** months of the **12-month** normal period of use. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: R-71703

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: year round.
3. Volume of use: 1,360 acre-feet.
4. A regulating device shall be installed pursuant to ORS 540-310.
5. A measuring device, installation and reporting are required pursuant to ORS 540-230, -240, -310, -320, -330, -420, -435.
6. Water use development requirements:
 - A) Begin construction by (one year from issuance of permit).
 - B) Complete construction by October 1, 1995.
 - C) Completely apply the water to beneficial use by October 1, 1996.
7. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
8. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
9. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
10. The total area proposed to be submerged by the reservoir, when full is **680 acres**; the proposed maximum depth of water in feet is **21**; the maximum height of the dam is **4** feet.
11. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe, with a minimum diameter of 8 inches.

12. In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.
13. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Report Date: 4/19/93 *CS*

OREGON WATER RESOURCES DEPARTMENT
SATISFACTORY REPORT OF TECHNICAL REVIEW
FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE JUNE 29, 1993.

APPLICATION FILE NUMBER - S 71813

Applicant name/address/county/phone:

DEVILS LAKE WATER IMPROVEMENT DISTRICT
PO BOX 974
LINCOLN CITY, OR 97367
LINCOLN COUNTY 503-994-5330

Date application received for filing and/or tentative date of priority: AUGUST 27, 1991

SOURCE: D RIVER, TRIBUTARY TO PACIFIC OCEAN

Purpose and/or use: RECREATION AND IMPROVEMENT OF WATER QUALITY.

Flow: 297 gpm

Point of Diversion Location:

T 7 S, R 11 W, W.M., SECTION 15

Place of use:

W 1/2
SECTION 1
E 1/2
SECTION 2
E 1/2
SECTION 11
W 1/2 NW 1/4
SECTION 12
N 1/2
SECTION 14
SE 1/4 NE 1/4
SECTION 15
TOWNSHIP 7 SOUTH, RANGE 11 WEST, W.M.

WATER AVAILABILITY

This is an application for use of surface water.

The D River has not been designated as a scenic waterway and is not upstream from a stream or a tributary to a stream or river which has been so designated.

The following tabulation delineates the flow of surface water available from the D River for appropriation for the months of each year in CFS near the mouth, SE 1/4 NE 1/4, Section 15, T7S, R11W, W.M. Flow data is figured by statistical approximation.

| <u>JAN</u> | <u>FEB</u> | <u>MAR</u> | <u>APR</u> | <u>MAY</u> | <u>JUN</u> | <u>JUL</u> | <u>AUG</u> | <u>SEP</u> | <u>OCT</u> | <u>NOV</u> | <u>DEC</u> | |
|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|------------|-------|
| 61 | 73 | 53 | 31 | 15 | 5.8 | 1.4 | 0 | 0 | 5.2 | 26 | 59 | STAT |
| - | - | - | - | - | - | - | - | - | - | - | - | ISWR* |
| 61 | 73 | 53 | 31 | 15 | 5.8 | 1.4 | 0 | 0 | 5.2 | 26 | 59 | AVL** |

*There are no instream water rights.
**Water Available

These flows represent the amount of water which is likely available in excess of needs for all existing rights (including Instream Water Rights of record and Scenic Waterway Flow requirements) 80% of the time during each monthly period.

CONFLICTS WITH OTHER WATER RIGHTS:

There are existing rights from this point of diversion. See proposed permit conditions.

There are existing water rights appurtenant to the lands described in the application. See proposed permit conditions.

REPORT CONCLUSIONS:

Water in the amount of 297 GALLONS PER MINUTE is likely available for 10 months of the 12-months normal period of use. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: 71813

The following conditions will apply to water use under the permit, and will appear in the permit, if issued.

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: water may be appropriated October 1 to July 31 of each year. During August and September of each year, inflow must equal outflow.
3. Rate of use: 297 gpm
4. A regulating device shall be installed pursuant to ORS 540-310.
5. A measuring device, installation and reporting are required pursuant to ORS 540-230, -240, -310, -320, -330, -420, -435.
6. Water use development requirements:
 - A) Begin construction by (one year from issuance of permit).
 - B) Complete construction by October 1, 1995.
 - C) Completely apply the water to beneficial use by October 1, 1996.
7. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
8. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

9. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
10. In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.
11. This right is limited to any deficiency in the available supply of any prior right existing for the same land.