

December 29, 2010

Paul Robertson
Devils Lake Water Improvement District
820 SE Hwy 101, Suite D
P.O. Box 974
Lincoln City, OR 97367

RE: Conditions of use for Water Right Permit S-52672

Dear Paul:

You asked if the Water Resources Department could provide an exemption to a condition of the above permit. The condition you refer to requires the District to pass all inflow into Devils Lake through to the D River during the months of August and September.

Since my conversation with you earlier today I have been in contact with our water rights staff in Salem and what I had indicated to you is incorrect. I was informed the Water Resources Commission and the Water Resources Department do not have the authority to provide this waiver. It is a condition of the permit and cannot be changed.

You asked how the condition became a part of the permit and after researching the file I found a number of documents that were used as the basis to include the condition. (please see the attached 3 documents).

On April 19, 1993, a letter (attached) from the Water Resources Department, was sent to Mr. Karl Ordelleide who was the Chairperson of the Devils Lake Water Improvement District. The letter was a status report regarding the application and included the Technical Review for the proposed permit. The Technical Review also identified proposed conditions that would limit the water use under the permit. There was also a statement in the letter indicating that Mr. Ordelleide (DLWID) could object to any of the analyses contained in the report, how to go about filing the objection, and the time limits to file an objection.

You will see, that no water was available during the months of August and September, under the water availability model used at the time of the application review. Apparently Mr. Ordelleide did not file an objection to the proposed conditions and the permit was issued with the flow through condition. On July 30, 1996, a "Limited period of use acknowledgement Letter" (attached) was received by the Department, in agreement with the limited use condition. On Dec. 8, 1997, DLWID submitted an annual report for permits R-71703 and S-71813 (attached). The report includes information on all the activities DLWID employed to comply with the conditions on the permits and also the adopted monitoring programs. Under section III you will find the basis for how the

monitoring/measurement plan evolved and was accepted by the Water Resources Department. Apparently there were a number of options discussed and consensus resulted in the agreed to plan regarding compliance with the permit conditions.

I don't know why the water availability model indicated a lack of available water for August and September during the processing of the applications, nor do I know what has taken place since then to change the water availability model. Currently the model indicates that water is available year round and you could submit an application for the use of additional water during the months of August and September. The application would be for a new water right permit, with a new priority date, to maintain the storage component of your water right. The new application would be processed in the same manner as any other application. We would conduct a water availability review, public interest review, and interested parties would have the opportunity to submit comments and or concerns. If the Department receives comment, we are required to review the merits of those comments and issues raised. If the Department determines there are valid issues, conditions could be included on any new permit if issued.

Please accept my apology for the length of time it has taken to respond to your request. If you have any additional questions, please call or email.

Sincerely,

Greg Beaman
Watermaster, Dist. 1

Cc: Bill Ferber, OWRD, NW Reg. Mgr.

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