



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A

Salem, OR 97301-1266

503-986-0900

FAX 503-986-0904

Contacts:

Oregon Water Resources Dept.

Brenda Bateman

Telephone: 503-986-0879

Cell Phone: 503-689-6119

E-mail: brenda.o.bateman@state.or.us

Oregon Department of Justice

Telephone: 503-378-6002

Email: dojmedia@doj.state.or.us

FOR IMMEDIATE RELEASE

July 27, 2012

Harrington Conviction and Sentence

Judgment Addresses 11 Years of Illegal Water Use

On Wednesday July 11, 2012, a Jackson County Circuit Court Jury convicted Eagle Point resident Gary A. Harrington on nine counts, each related to the unauthorized use of water. Under Oregon law, all water is publicly owned, and those who wish to use it for their own purposes must obtain a water right permit issued by the Oregon Water Resources Department (OWRD). State law grants various exceptions to this requirement, including an exception for collecting precipitation water that gathers on an artificial impervious surface, such as a rooftop or parking lot; in rain barrels, for example.

Harrington stored and used water illegally by placing dams across channels on his property and preventing the flow of water out of these artificial reservoirs without obtaining a water right permit. The height of each dam varies; two dams stand about ten feet tall and the third stands about 20 feet tall. The total amount of water collected behind these dams totals about 40 acre feet; enough to fill almost 20 Olympic-sized swimming pools. These man-made reservoirs feature boat docks, boats, and were stocked by Harrington with trout and Bluegill for recreational fishing.

The state first identified Harrington's illegal water use more than ten years ago and initiated enforcement action to discontinue his illegal use of water. After numerous attempts by OWRD and the Watermaster to achieve voluntary compliance, the Department enlisted the assistance of the Oregon State Police in 2002. Citations were issued, and Harrington pleaded guilty to several violations. He was assessed a

nominal fine and ordered to drain the three reservoirs, which he did. However, Harrington again closed the headgates in 2004 and refilled the reservoirs. As a result, OWRD and the Oregon State Police submitted reports to the Jackson County District Attorney's Office alleging additional violations of Oregon water law. That office filed misdemeanor charges against Harrington, and in 2008 he pled guilty to one count. He was issued another fine, placed on one year probation, and was again ordered to drain the reservoirs.

According to testimony in the most recent trial, the day after Harrington's probation expired, he again closed the outlet valves and refilled the reservoirs. The District Attorney's Office enlisted the help of the Oregon Department of Justice, charges were once again filed in Jackson County Circuit Court, and on July 11, 2012, a jury found Harrington guilty of all nine counts.

On Wednesday the Court sentenced Mr. Harrington to 30 days in jail and three years' probation, and imposed a \$1,500 fine. Judge Timothy Gerking also ordered that the headgates holding back the water be opened and kept open with locks and chains. He also ordered the dams to be breached after the water is drained.

"Mr. Harrington has operated these three reservoirs in flagrant violation of Oregon law for more than a decade," noted OWRD Deputy Director Tom Paul. "We rely on the judicial system to maintain the rule of law and the Court's conviction and sentencing in this case has done just that."

Officials with the Department, in conjunction with the State Police, plan to visit the site during the next several days in order to confirm Harrington's compliance with court orders.

###

If you would like more information about this topic, or to schedule an interview, please call Brenda Bateman at 503-986-0879 or e-mail Brenda.O.Bateman@state.or.us.