

Application for a Permit to Use **RECEIVED**
Surface Water

MAR 17 2023

OWRD



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 503-986-0900
 www.oregon.gov/OWRD

SECTION 1: APPLICANT INFORMATION AND SIGNATURE

Applicant

NAME Art Kuenzi		PHONE (HM)	
PHONE (WK)	CELL 503 932 8313		FAX
ADDRESS 7975 Spring Valley Rd. NW			
CITY Salem	STATE OR	ZIP 97304	E-MAIL * art@suburbangarbage.com

Organization

NAME Kuenzi Family Vineyard		PHONE		FAX
ADDRESS 7975 Spring Valley Rd. NW			CELL 503 932 8313	
CITY Salem	STATE OR	ZIP 97304	E-MAIL * art@suburbangarbage.com	

Agent – The agent is authorized to represent the applicant in all matters relating to this application.

AGENT / BUSINESS NAME		PHONE		FAX
ADDRESS			CELL	
CITY	STATE	ZIP	E-MAIL *	

Note: Attach multiple copies as needed

* By providing an e-mail address, consent is given to receive all correspondence from the Department electronically. (Paper copies of the proposed and final order documents will also be mailed.)

RECEIVED
MAR 23 2023

OWRD

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application.
- I cannot legally use water until the Water Resources Department issues a permit.
- The Department encourages all applicants to wait for a permit to be issued before beginning construction of any proposed diversion. Acceptance of this application does not guarantee a permit will be issued.
- If I begin construction prior to the issuance of a permit, I assume all risks associated with my actions.
- If I receive a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be cancelled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit, I may have to stop using water to allow senior water right holders to receive water to which they are entitled.

I (we) affirm that the information contained in this application is true and accurate



	Art Kuenzi	2.23.23
Applicant Signature	Print Name and Title if applicable	Date
_____	_____	_____
Applicant Signature	Print Name and Title if applicable	Date

SECTION 2: PROPERTY OWNERSHIP

Please indicate if you own all the lands associated with the project from which the water is to be diverted, conveyed, and used.

- YES, there are no encumbrances.
- YES, the land is encumbered by easements, rights of way, roads or other encumbrances.
- NO, I have a recorded easement or written authorization permitting access.
- NO, I do not currently have written authorization or easement permitting access.
- NO, written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigation and/or domestic use only (ORS 274.040).
- NO, because water is to be diverted, conveyed, and/or used only on federal lands.

Affected Landowners: List the names and mailing addresses of all owners of any lands that are not owned by the applicant and that are crossed by the proposed ditch, canal or other work, even if the applicant has obtained written authorization or an easement from the owner. *(Attach additional sheets if necessary).*

Paula L Eschtruth 3950 Bethel Height Rd. NW

Legal Description: You must provide the legal description of: 1. The property from which the water is to be diverted, 2. Any property crossed by the proposed ditch, canal or other work, and 3. Any property on which the water is to be used as depicted on the map.

SECTION 3: SOURCE OF WATER

A. Proposed Source of Water

Provide the commonly used name of the water body from which water will be diverted, and the name of the stream or lake it flows into (if unnamed, say so), and the locations of the point of diversion (POD):

Source 1: Unnamed Spring	Tributary to: SpringValley Creek
TRSQQ of POD: T6S R3W S18sw1/4nw1/4	
Source 2:	Tributary to:
TRSQQ of POD:	

If any source listed above is stored water that is authorized under a water right permit, certificate, or decree, attach a copy of the document or list the document number (for decrees, list the volume, page and/or decree name).

RECEIVED

MAR 17 2023

OWRD

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

B. Applications to Use Stored Water

Do you, or will you, own the reservoir(s) described in Section 3A above?

Yes. No. (Enclose a copy of your written notification to the operator of the reservoir of your intent to file this application, which should have been mailed or delivered to the operator.)

If *all* sources listed in Section 3A are stored water, the Department will review your application using the expedited process provided in ORS 537.147, unless you check the box below. Please see the instruction booklet for more information.

By checking this box, you are requesting that the Department process your application under the standard process outlined in ORS 537.150 and 537.153, rather than the expedited process provided by ORS 537.147. To file an application under the standard process, you must enclose the following:

- A copy of a signed non-expired contract or other agreement with the owner of the reservoir (if not you) to impound the volume of water you propose to use in this application.
- A copy of your written agreement with the party (if any) delivering the water from the reservoir to you.

SECTION 4: SENSITIVE, THREATENED OR ENDANGERED FISH SPECIES PUBLIC INTEREST INFORMATION

This information must be provided for your application to be accepted as complete. The Water Resources Department will determine whether the proposed use will impair or be detrimental to the public interest with regard to sensitive, threatened or endangered fish species.

To answer the following questions, use the map provided in Attachment 3 or the link below to determine whether the proposed point of diversion (POD) is located in an area where the Upper Columbia, the Lower Columbia, and/or the Statewide public interest rules apply.

For more detailed information, click on the following link and enter the T,R,S,QQ or the Lat/Long of a POD and click on "Submit" to retrieve a report that will show which section, if any, of the rules apply:
https://apps.wrd.state.or.us/apps/misc/lkp_trsqq_features/

If you need help to determine in which area the proposed POD is located, please call the customer service desk at (503) 986-0900.

RECEIVED

MAR 23 2023

OWRD

Upper Columbia - OAR 690-033-0115 thru -0130

Is the POD located in an area where the Upper Columbia Rules apply?

Yes No

If yes, you are notified that the Water Resources Department will consult with numerous federal, state, local and tribal governmental entities so it may determine whether the proposed use is consistent with the "Columbia River Basin Fish and Wildlife Program" adopted by the Northwest Power Planning Council in 1994 for the protection and recovery of listed fish species. The application may be denied, heavily conditioned, or if appropriate, mitigation for impacts may be needed to obtain approval for the proposed use.

If yes,

- I understand that the proposed use does not involve appropriation of direct streamflow during the time period April 15 to September 30, except as provided in OAR 690-033-0140.
- I understand that I will install, operate and maintain a fish screen and fish passage as listed in ORS 498.301 through 498.346, and 509.580 through 509.910, to the specifications and extent required by Oregon Department of Fish and Wildlife, prior to diversion of water under any permit issued pursuant to this application.
- I understand that the Oregon Department of Environmental Quality will review my application to determine if the proposed use complies with existing state and federal water quality standards.
- I understand that I will install and maintain water use measurement and recording devices as required by the Water Resources Department, and comply with recording and reporting permit condition requirements.

Lower Columbia - OAR 690-033-0220 thru -0230

Is the POD located in an area where the Lower Columbia rules apply?

Yes No

If yes, you are notified that that the Water Resources Department will determine, by reviewing recovery plans, the Columbia River Basin Fish and Wildlife Program, and regional restoration programs applicable to threatened or endangered fish species, in coordination with state and federal agencies, as appropriate, whether the proposed use is detrimental to the protection or recovery of a threatened or endangered fish species and whether the use can be conditioned or mitigated to avoid the detriment.

If a permit is issued, it will likely contain conditions to ensure the water use complies with existing state and federal water quality standards; and water use measurement, recording and reporting required by the Water Resources Department. The application may be denied, or if appropriate, mitigation for impacts may be needed to obtain approval of the proposed use.

If yes, provide the following information (the information must be provided with the application to be considered complete).

Yes No The proposed use is for more than **one** cubic foot per second (448.8 gpm) and is not subject to the requirements of OAR 690, Division 86 (Water Management and Conservation Plans).

If yes, provide a description of the measures to be taken to assure reasonably efficient water use:

RECEIVED

MAR 23 2023

RECEIVED

MAR 17 2023

OWRD

OWRD

Statewide - OAR 690-033-0330 thru -0340

Is the POD located in an area where the Statewide rules apply?

Yes No

If yes, the Water Resources Department will determine whether the proposed use will occur in an area where endangered, threatened or sensitive fish species are located. If so, the Water Resources Department, Department of Fish and Wildlife, Department of Environmental Quality, and the Department of Agriculture will recommend conditions required to achieve "no loss of essential habitat of threatened and endangered (T&E) fish species," or "no net loss of essential habitat of sensitive (S) fish species." If conditions cannot be identified that meet the standards of no loss of essential T & E fish habitat or no net loss of essential S fish habitat, the agencies will recommend denial of the application unless they conclude that the proposed use would not harm the species.

SECTION 5: WATER USE

Provide the amount of water you propose to use from each source, for each use, in cubic feet-per-second (cfs) or gallons-per-minute (gpm). If the proposed use is from storage, provide the amount in acre-feet (af):
 (1 cfs equals 448.8 gpm. 1 acre-foot equals 325,851 gallons or 43,560 cubic feet)

SOURCE	USE	PERIOD OF USE	AMOUNT
Unnamed Spring	Winery	365 Days/year	<input type="checkbox"/> cfs <input checked="" type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
		amount: 3 gpm	<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af
			<input type="checkbox"/> cfs <input type="checkbox"/> gpm <input type="checkbox"/> af

Please indicate the number of primary, supplemental and/or nursery acres to be irrigated.
 Primary: _____ Acres Supplemental: _____ Acres Nursery Use: _____ Acres
 If supplemental acres are listed, provide the Permit or Certificate number of the underlying primary water right(s):
 Indicate the maximum total number of acre-feet you expect to use in an irrigation season: _____

- If the use is **municipal or quasi-municipal**, attach **Form M**
- If the use is **domestic**, indicate the number of households:
- If the use is **mining**, describe what is being mined and the method(s) of extraction:

SECTION 6: WATER MANAGEMENT

A. Diversion and Conveyance

What equipment will you use to pump water from your source?

- Pump (give horsepower and type):
- Other means (describe): **GRAVITY Flow**

Provide a description of the proposed means of diversion, construction, and operation of the diversion works and conveyance of water.

See attached

B. Application Method

What equipment and method of application will be used? (e.g., drip, wheel line, high-pressure sprinkler)

See attached

C. Conservation

Please describe why the amount of water requested is needed and measures you propose to: prevent waste; measure the amount of water diverted; prevent damage to public uses of affected surface waters.

See attached

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

SECTION 7: RESOURCE PROTECTION

In granting permission to use water from a stream or lake, the state encourages, and in some instances requires, careful control of activities that may affect the waterway or streamside area. See instruction guide for a list of possible permit requirements from other agencies. Please indicate any of the practices you plan to undertake to protect water resources:

Diversion will be screened per ODFW specifications in ORS 498.301 through 498.346 to prevent uptake of fish and other aquatic life.
Describe planned actions:

Excavation or clearing of banks will be kept to a minimum to protect riparian or streamside areas.
Note: If disturbed area is more than one acre, applicant should contact the Department of Environmental Quality to determine if a 1200C permit is required.
Describe planned actions and additional permits required for project implementation:

Operating equipment in a water body will be managed and timed to prevent damage to aquatic life.
Describe planned actions and additional permits required for project implementation:

Water quality will be protected by preventing erosion and run-off of waste or chemical products.
Describe planned actions:

List other federal and state permits or contracts to be obtained, if a water right permit is granted.

SECTION 8: PROJECT SCHEDULE

- a) Date construction will begin: a:Apr '23 b:Jul '23 c:9.1.23
- b) Date construction will be completed: a:Apr '23 b:Jul '23 c:9.1.23
- c) Date beneficial water use will begin: a:Apr '23 b:Jul '23 c:9.1.23

SECTION 9: WITHIN A DISTRICT

Check here if the point of diversion or place of use are located within or are served by an irrigation or other water district.

Irrigation District Name	Address	
City	State	Zip

SECTION 10: REMARKS

Use this space to clarify any information you have provided in the application. (Attach additional sheets if necessary).

RECEIVED
 MAR 17 2023
OWRD

RECEIVED
 MAR 23 2023
OWRD

Attachment

Section 6

- A. We will use the existing collection system that conveys water for domestic use. We will tap an existing waterline to take water to winery.
- B. NA
- C. Water will go to a 1000 gallon storage tank via 3gpm orifice. Tank will be operated by a manual float. Water usage will be governed by appropriate faucets in the winery. When the tank is full and faucets are off water will not be drawn from source.

RECEIVED
MAR 23 2023
OWRD

RECEIVED
MAR 17 2023
OWRD

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
503-986-0900
www.oregon.gov/OWRD

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or groundwater registration modification, and all of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; and
 - d) The application involves irrigation water uses only.

RECEIVED

MAR 17 2023

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land use form and return it to the WRD. If no land use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0900.

RECEIVED

MAR 23 2023

OWRD

Land Use Information Form



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem, Oregon 97301-1266
 503-986-0900
 www.oregon.gov/OWRD

RECEIVED
 MAR 17 2023

OWRD

Applicant

NAME Art Kuenzi		PHONE (HM)	
PHONE (WK)	CELL 503 932 8313	FAX	
ADDRESS 7975 Spring Valley Rd. NW			
CITY Salem	STATE OR	ZIP 97304	E-MAIL* art@suburbangarbage.com

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
6S	3W	18	NE ¼ SW ¼	500	FARM / FOREST	<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	WINERY
6S	3W	18	SW ¼ NW ¼	701	FARM / FOREST	<input checked="" type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	WINERY
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Polk County

RECEIVED
 MAR 30 2023

B. Description of Proposed Use

OWRD

Type of application to be filed with the Water Resources Department:

- Permit to Use or Store Water
- Water Right Transfer
- Permit Amendment or Groundwater Registration Modification
- Limited Water Use License
- Allocation of Conserved Water
- Exchange of Water

Source of water: Reservoir/Pond Groundwater Surface Water (name) UNNAMED SPRING

Estimated quantity of water needed: _____ cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)
 Municipal Quasi-Municipal Instream Other _____

Briefly describe: WATER TO BE USED FOR TASTING ROOM & WINERY FUNCTIONS

Note to applicant: If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

For Local Government Use Only

OWRD

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____.
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. (Please attach documentation of applicable land use approvals which have already been obtained. Record of Action/land use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land Use Approval Needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land Use Approval:	
Administrative Review Land Use Authorization (UD 22-78, attached)	RCZO 138.050(B), 117.020, 117.110	<input checked="" type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

* Subject to 13 conditions of appeal

NAME Sidney Muder		TITLE: Planning Manager	
SIGNATURE 	PHONE: 503-623-9237	DATE: 2-17-2023	
GOVERNMENT ENTITY Polk County			

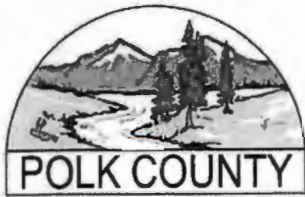
Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____



POLK COUNTY

POLK COUNTY COURTHOUSE • DALLAS, OREGON 97338
(503) 623-9237

COMMUNITY DEVELOPMENT

AUSTIN MCGUIGAN
Director

RECEIVED

MAR 17 2023

OWRD

NOTICE OF LAND USE APPLICATION

APPLICATION FOR: The applicants are proposing to establish a winery that produces less than 50,000 gallons of wine annually on the subject property. The subject property contains approximately 67.1 acres and is located in the Farm Forest (F/F) Zoning District.

APPLICANT: Arthur and Mary Kuenzi

OWNER: Art and Mary Kuenzi, Trust

FILE NUMBER: LUD 22-78

LOCATION: 7975 Spring Valley Road NW, Salem, Oregon 97304 (T6S, R3W, Section 18, Tax Lot 500)

REVIEW AND DECISION CRITERIA: Polk County Zoning Ordinance (PCZO) 138.050(B), 117.020, and 117.110.

STAFF CONTACT: Michael Burns: Phone (503) 623-9237
Email: burns.michael@co.polk.or.us

DECISION

Based on the Review and Decision Criteria above, the request to establish a winery on the subject property is **approved**. The application shall be subject to compliance with the conditions listed below, as required by the findings in the Review and Decision Criteria (Section III). Any modifications to conditions shall be approved in accordance with provisions of law (e.g., variance, or subsequent land use application, etc.).

Conditions of Development:

1. The winery's production level shall be limited to less than 50,000 gallons of wine per year.
2. At least 15 acres of planted vineyard shall be maintained on the subject property.
3. In addition to producing and distributing wine, the on-site winery may:
 - a. Market and sell wine produced in conjunction with the winery;
 - b. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - i. Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - ii. Wine club activities;
 - iii. Winemaker luncheons and dinners;
 - iv. Winery and vineyard tours;
 - v. Meetings or business activities with winery suppliers, distributors, wholesale customers, and wine-industry members;
 - vi. Winery staff activities;

RECEIVED

MAR 23 2023

OWRD

- vii. Open house promotions of wine produced in conjunction with the winery; and
 - viii. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
- c. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:
- i. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - ii. Served in conjunction with an activity authorized by Polk County Zoning Ordinance (PCZO) 117.020(D)(2), (4), or (5).
- d. Host charitable activities for which the winery does not charge a facility rental fee.
4. Prior to carrying out any agri-tourism or other commercial events, a multi-year permit and/or license would be required pursuant to PCZO 117.020(D)(4), 117.020(G), 117.090, and 117.100.
 5. The gross income of the winery from the sale of incidental items or services provided pursuant to subsection PCZO 117.020(D)(3) to (5) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery.
 6. At the request of Polk County, the winery shall submit a written statement prepared by a certified public accountant that certifies compliance with condition number 5 for the previous tax year. The written statement shall be accompanied by the appropriate planning fee for a land use condition of approval compliance review.
 7. The on-site kitchen shall be licensed by the Oregon Health Authority (OHA) under ORS 624.010 to 624.121. Food and beverage services may not utilize menu options for meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.
 8. Prior to operating the winery, the property owners shall obtain all necessary permits from the Polk County Building and Environmental Health Divisions and the Polk County Public Works Department. These permits may include, but are not limited to the following: building, electrical, mechanical, and plumbing permits from the Building Division; a septic site evaluation and a septic construction permit from the Environmental Health Division; and a new or amended access permit from the Public Works Department.
 9. The proposed winery shall maintain a minimum of a 100 foot setback distance from all property lines. In addition, any public gathering places (including outdoors) shall not occur within 100 feet of any of the property lines.
 10. Prior to issuing building permits, the applicant shall provide a parking plan to the Polk County Community Development Department. The minimum number of parking spaces for the tasting room shall be calculated using the standards found in PCZO 112.250(BB). The minimum number of parking spaces for the wine production area shall be calculated using the standards found in PCZO 112.250(DD). However, no less than 25 parking spaces, including one (1) ADA space, shall be provided. Loading spaces shall be provided pursuant to the criteria found in PCZO 112.260(B). Parking and loading areas shall be surfaced in gravel, asphalt or concrete, as required by PCZO 112.270(B). The parking plan shall meet all other applicable parking and loading standards set forth in PCZO Chapter 112. If at any time, more than 25 vehicles are on-site, the applicant shall be responsible for providing additional parking spaces consistent with the parking provisions of the Polk County Zoning Ordinance.
 11. The applicant shall be responsible for ensuring that all other applicable State, Federal, or local permits or licensing have been obtained. Such requirements may include, but are not limited to, a license from the Oregon Liquor and Cannabis Commission (OLCC) for wine production, sale, and serving alcoholic beverages to the public; a Water Pollution Control Facility (WPCF) permit from the Oregon Department of Environmental Quality (DEQ) for on-site processed wastewater;

RECEIVED
MAR 23 2023

RECEIVED

MAR 17 2023

OWRD

OWRD

a permit from the Oregon Department of Agriculture (ODA) for using water from a private well and for operating a tasting room; and a new or amended water right from the Oregon Water Resource Department (OWRD). Nothing in this land use authorization overrides any regulations administered by another government entity.

12. Prior to any future development within the wetland areas, the property owners shall be responsible for ensuring that all applicable State or Federal permits have been obtained, such permits may include, but are not limited to, a Removal Fill Permit from the Oregon Department of State Lands (DSL).
13. Prior to operating the winery, the applicant shall contact the Deputy State Fire Marshall for required access and water supply requirements.

EFFECTIVE DATE: January 3, 2023 at 5:00 p.m. This application and approval must be exercised within two (2) years from its effective date or it shall be null and void. If additional time is required, the applicant shall file a written request for extension, with the appropriate fee, addressed to the Polk County Planning Director, at least thirty (30) days prior to the expiration.



Austin McGuigan, Planning Director

12/21/22

Date

Decisions of the Polk County Planning Director may be appealed to the Polk County Board of Commissioners by any person whose interests are adversely affected or who is aggrieved by the decision. Such appeals must be filed within 12 days of the mailing of the decision, with the Polk County Community Development Department, Polk County Courthouse, Dallas, Oregon, on the form supplied by the Community Development Department with the appropriate fee paid at the time of filing. Failure of an issue to be raised in person or by letter or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes an appeal to the Land Use Board of Appeals (LUBA) based on that issue. Appeals to LUBA may be based only on Review and Decision Criteria contained in Section III, below. This decision becomes effective only if a written appeal is not filed within the appeal period. If an appeal is filed, this decision is stayed until the governing body makes a determination.

A copy of the application, all documents, and evidence relied upon by the applicant, and the applicable criteria are available for inspection at no cost and will be provided at the Community Development Department for the cost of copying. The decision granted herein does not vest (guarantee) the right of the property owner to use the property as authorized in this land use decision in perpetuity. The property owner is responsible for completing required conditions and establishing and continuing the use in order to retain a vested right. The property owner is advised to consult with an attorney to determine the appropriate actions necessary to obtain and retain rights of use authorized by this decision.

Polk County Community Development; Polk County Courthouse; 850 Main Street; Dallas, OR 97338 503-623-9237

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: Oregon Revised Statutes (ORS) Chapter 215 requires that if you receive this Notice of Decision, it must promptly be forwarded to the purchaser.

CC: Area property owners

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

**Polk County Community Development Department
Planning Division Staff Report**

APPLICATION FOR: The applicants are proposing to establish a winery that produces less than 50,000 gallons of wine annually on the subject property. The subject property contains approximately 67.1 acres and is located in the Farm Forest (F/F) Zoning District.

APPLICANT: Arthur and Mary Kuenzi

OWNER: Art and Mary Kuenzi, Trust

FILE NUMBER: LUD 22-78

LOCATION: 7975 Spring Valley Road NW, Salem, Oregon 97304 (T6S, R3W, Section 18, Tax Lot 500)

REVIEW AND DECISION CRITERIA: Polk County Zoning Ordinance 138.050(B), 117.020, and 117.110.

STAFF CONTACT: Michael Burns: Phone (503) 623-9237
Email: burns.michael@co.polk.or.us

I. PROJECT AND PROPERTY DESCRIPTION

REQUEST: The applicant is proposing to establish a winery and tasting room on the subject property within a proposed new building. The applicant is proposing to produce less than 50,000 gallons of wine annually on-site, and to hold wine tastings, club activities, wine maker and employee luncheons, vineyard tours, meetings with wine industry members, staff functions, open houses, and any other allowed functions that facilitate wine promotion and sales for up to 30 guests at a time. The applicant's plot plan is included as Attachment A-1. Attachment A-2 is a map created by staff intended to depict the subject property and surrounding area.

This application was submitted on October 31, 2022 and deemed complete on November 21, 2022.

PROPERTY SIZE: Approximately 67.1 acres

COMPREHENSIVE PLAN AND ZONING DESIGNATIONS:

Location:	Comprehensive Plan Designation	Zoning Designation
Subject Property	Farm/Forest	Farm/Forest
Property North	Farm/Forest	Farm/Forest
Property East	Agriculture	Exclusive Farm Use
Property South	Farm/Forest	Farm/Forest
Property West	Farm/Forest	Farm/Forest

PROPERTY DESCRIPTION: The subject property is located at 7975 Spring Valley Road NW, Salem, Oregon (T6S, R3W, Section 18, Tax Lot 500), contains approximately 67.1 acres, and is located within the Farm/Forest (F/F) zone. The subject property is accessed by Spring Valley Road NW via an existing private road located entirely on the subject property. The subject property was lawfully created pursuant to Polk County Subdivision and Partition Ordinance (PCSO) 91.950(1)(a), as evidenced by the recording of a sales contract in Polk County Book of Record 46, page 689, dated July 25, 1973. The subject property is currently described in a Deed recorded in Polk County Clerk Document 2014-004082, dated May 21, 2014.

Based on the 2022 Polk County Assessor's records, the subject property contains one (1) single-family dwelling and five (5) accessory structures. According to statements made by the applicant, two (2) of the accessory structures are in the process of being removed from the subject property. The applicant proposes to construct a new structure for the winery to be used for wine production and as a tasting room. However, the applicant did not indicate the proposed size of the structure.

RECEIVED

MAR 23 2023 MAR 17 2023

According to the Emergency Management Agency (FEMA) Flood Insurance Rate Map (FIRM) panel number 41053C0150F, dated December 19, 2006, the subject property is not located within the Special Flood Hazard Area (SFHA). Based on a review of the Polk County Significant Resource Areas (SRA) Map, the subject property does not contain any inventoried significant resources. There are no identified historic sites or Willamette River Greenway areas on the subject property.

According to the National Wetlands Inventory (NWI) Map, Mission Bottom quadrangle, there are six (6) inventoried wetlands on the subject property. These wetlands include four (4) freshwater ponds, one (1) freshwater emergent wetland, and one (1) riverine wetland that is associated with a tributary to Spring Valley Creek. According to the Polk County SRA Map, this tributary is not a significant fish bearing stream. Therefore, the criteria for significant resources found in Polk County Zoning Ordinance (PCZO) Chapter 182 are not applicable. Nevertheless, this report serves as notice to the property owners of the presence of wetlands on the subject property, and the possible need for State or Federal permits. Prior to any future development within the wetland areas, the property owners shall be responsible for ensuring that all applicable State or Federal permits have been obtained, such permits may include, but are not limited to, a Removal Fill Permit from the Oregon Department of State Lands (DSL).

- Access: The subject property is accessed from Spring Valley Road NW via an existing private driveway located entirely on the subject property. Spring Valley Road NW is a Local Road as defined in the Polk County Transportation Systems Plan, Figure 3.
- Services: The subject property is served by a private well and an on-site septic system.
- School: Salem School District 32J
- Fire: Dayton Fire District
- Police: Polk County Sheriff

II. COMMENTS

Environmental Health:

RECEIVED
MAR 23 2023
OWRD

The applicant will need to apply for a site evaluation to determine septic suitability for the winery/tasting room. If a wine tasting room and/or food service is proposed, the applicant will need to contact Oregon Department of Agriculture (ODA) for licensing requirements. If the winery is on a well, the applicant will need to contact Oregon Health Authority (OHA) drinking water program about establishing a water system. Wastewater produced from production may require a Water Pollution Control Facility (WPCF) permit, contact the Department of Environmental Quality (DEQ).

Department of Environmental Quality (DEQ):

A DEQ Water Quality Permit may be required for the disposal of wastewater from winery operations. DEQ rules prohibit the discharge of this type of wastewater to the onsite sewage system. Please contact Jennifer Maglinte-Timbrook at jennifer.maglinte-timbrook@deq.oregon.gov for more information.

No other comments were received as of the writing of this staff report. Full comments are included in the record.

III. REVIEW AND DECISION CRITERIA

The review and decision criteria for a winery that produces less than 50,000 gallons of wine annually are listed in Polk County Zoning Ordinance 138.050(B), 117.020 and 117.110, subject to administrative review. Staff findings and analysis is provided below.

RECEIVED
MAR 17 2023
OWRD

138.050 USES SUBJECT TO ADMINISTRATIVE REVIEW. The following uses are permitted, subject to review and approval under the prescriptive standards specified herein, the general siting standards for dwellings and structures under Section 138.110, the fire siting standards for dwellings and structures under 138.120, and as may otherwise be indicated by federal, state and local permits or regulations.

(A) *Winery [ORS 215.452]*, subject to the requirements of PCZO Chapter 117. [PCZO 138.050(B)]

1) A winery may be permitted through the administrative review process in the EFU, FF, and FFO zones and through the conditional use review process in the AF-10 zone, if the winery produces wine with a maximum annual production of:

A. Less than 50,000 gallons and the winery:

1. Owns an on-site vineyard of at least 15 acres;
2. Owns a contiguous vineyard of at least 15 acres;
3. Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or
4. Obtains grapes from any combination of paragraphs (1), (2), or (3) of this subsection; or [PCZO 117.020(A)(1)-(4)]

2) Prior to the issuance of a permit to establish a winery under subsection (A) or (B) of this section, the applicant shall show that the vineyards have been planted or that the contract has been executed, as applicable. [PCZO 117.020(C)]

Findings: The subject property contains approximately 67.1 acres and constitutes the entire subject tract. The applicant is proposing to produce less than 50,000 gallons of wine per year. To demonstrate that the subject property contains at least the required 15 acres of on-site planted vineyard, the applicant provided a plot plan that details the layout of the vineyards on the property. The primary vineyard is located in the northwest corner of the property and is approximately 13 acres in size. Staff reviewed the 2020 aerial photograph, accessed through Polk County's Geographic Information System (GIS), and verified that the area represented in the plot plan as planted vineyard was still being managed for vineyards at the time the photograph was taken. The applicant's narrative states that the owner planted an additional 3.1 acres in 2022, totaling 16.1 acres of vineyards on the subject property, and included photos of the new vineyard area in the record. Staff reviewed the July 2022 aerial imagery of the subject property, accessed through Google Earth, and confirmed that approximately 3.1 additional acres of vineyard had been planted. Staff finds that, based on the narrative and photos provided by the applicant, the 2020 aerial photograph from Polk County GIS, and the July 2022 imagery from Google Earth, the subject property contains on-site vineyards of at least 15 acres, which would permit the winery to produce less than 50,000 gallons of wine annually.

To ensure ongoing compliance with this criteria, staff recommends a condition of approval that at least 15 acres of planted vineyard shall be maintained on the subject property. In addition, the winery's production level shall be limited to less than 50,000 gallons of wine per year.

With these recommended conditions of approval, the application complies with these criteria.

3) In addition to producing and distributing wine, a winery established under subsection (A) or (B) of this section may: [PCZO 117.020(D)]

A. Market and sell wine produced in conjunction with the winery; [PCZO 117.020(D)(1)]

B. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:

1. Wine tastings in a tasting room or other location on the premises occupied by the winery;
2. Wine club activities;

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

RECEIVED

MAR 23 2023

OWRD

3. Winemaker luncheons and dinners;
 4. Winery and vineyard tours;
 5. Meetings or business activities with winery suppliers, distributors, wholesale customers, and wine-industry members;
 6. Winery staff activities;
 7. Open house promotions of wine produced in conjunction with the winery; and
 8. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery. [PCZO 117.020(D)(2)(a-h)]
- C. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:
1. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 2. Served in conjunction with an activity authorized by paragraphs (2), (4), or (5) of this subsection. [PCZO 117.020(D)(3)(a-b)]
- D. Subject to subsection (G) of this section, carry out agri-tourism or other commercial events on the tract occupied by the winery. [PCZO 117.020(D)(4)]
- E. Host charitable activities for which the winery does not charge a facility rental fee. [PCZO 117.020(D)(5)]

Findings: As discussed above, the applicant is proposing to produce wine, operate an on-site tasting room, and conduct operations that are related to the sale and production of wine such as wine tastings, club activities, wine maker and employee luncheons, vineyard tours, meetings with wine industry members, staff functions, open houses, and any other allowed activities listed in PCZO 117.020(D)(1-3) and (5).

PCZO 117.020(D)(4) permits agri-tourism or other commercial events on the tract occupied by the winery, which are subject to the criteria listed in PCZO 117.090 and 117.100. At this time, the applicant has not applied for the multi-year license or permit that is required prior to conducting any agri-tourism or other commercial events. If the applicant wishes to carry out agri-tourism or other commercial events in the future, a subsequent application(s) would be required in order to review the criteria found in PCZO 117.090 and 117.100.

To ensure that all winery activities are consistent with those authorized by PCZO 117.020(D), staff recommends a condition of approval that lists the authorized activities permitted by PCZO 117.020(D)(1-3) and (5); and specifies that prior to carrying out any agri-tourism or other commercial events, a multi-year permit and/or license would be required pursuant to PCZO 117.020(D)(4), 117.090, and 117.100.

With the above recommended conditions of approval, the application complies with these criteria.

- 4) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (D)(3) of this section. Food and beverage services authorized under subsection (D)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public. [PCZO 117.020(E)]

Findings: It is permitted to serve food and beverages that are required by the Liquor Control Act or rules adopted under the Liquor Control Act to be made available in conjunction with the consumption of wine on the premises. It is also permitted to serve food and beverages at functions which are directly related to the sale or marketing of wine produced on-site (i.e. wine maker luncheons or dinners, wine club activities, etc.). The applicant is proposing to operate a tasting room which may

RECEIVED

MAR 17 2023

include an on-site kitchen. An on-site kitchen is permitted when operating a tasting room. However, food and beverage services authorized under subsection (D)(3) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a café or other dining establishment open to the public. The food and beverages are considered “incidental items,” which is discussed in greater detail below. Therefore, staff recommends a condition of approval that any kitchen facilities must be licensed by the Oregon Health Authority (OHA) under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (D)(3) of this section.

Staff finds that with the above recommended conditions of approval, the application complies with this criteria.

- 5) **The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (D)(3) to (5) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of Polk County, the winery shall submit to Polk County a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year. [PCZO 117.020(F)]**

Findings: As permitted by PCZO 117.020(D), the proposed winery would be allowed to market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery. The marketing and sale of incidental items, including food and beverages, may not exceed 25 percent of the gross income from the on-site retail sale of wine produced. Examples of incidental sales include, but are not limited to; wine glasses, t-shirts, bottle openers, etc. The applicant states that they agree to comply with the above criteria. To ensure compliance with this criteria, staff recommends a condition of approval that the gross income of the winery from the sale of incidental items or services provided, as permitted by ORS 215.452(2)(c-e), may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery.

If the applicant produces any wine off-site, staff finds that so long as the wine that is produced off-site is produced from grapes grown on-site and sold through the tasting room, these sales would count as “on-site retail sales of wine produced in conjunction with the winery.” The gross income of a winery does not include income received by third parties unaffiliated with the winery. An example of this would be income generated from any on-site food carts. Additionally, at the request of Polk County, the winery shall submit a written statement prepared by a certified public accountant that certifies compliance with these gross income requirements for the previous tax year. The written statement shall be accompanied by the appropriate planning fee for a land use condition of approval compliance review.

With these conditions, the application complies with these criteria.

- 6) **A winery may carry out agri-tourism or other commercial events for up to 18 days per calendar year.**
- A. **Events on the first six days of the 18-day limit per calendar year are authorized by Polk County through the issuance of a renewable multi-year license, subject to section 117.090.**
 - B. **Events on days seven through 18 of the 18-day limit per calendar year are authorized by Polk County through the issuance of a renewable multi-year permit, subject to section 117.100. [PCZO 117.020(G)(1-2)]**
- 7) **When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:**
- A. **The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and**
 - B. **The meals may be served at the bed and breakfast facility or at the winery. [PCZO 117.020(D)(H)(1-2)]**

- 8) **As used in this section:**

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 27 2023

OWRD

MAR 23 2023

OWRD

- A. “Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings, and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
- B. “On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club, or over the Internet or telephone. [PCZO 117.020(I)(1-2)]

Findings: “Agri-tourism or other commercial events” is defined in ORS 215.452(14)(a) as “outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings, and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.” The applicant does not propose any agri-tourism or other commercial events at this time. If the applicant wishes to carry out agri-tourism or other commercial events associated with the winery, they would be subject to additional review. The applicant does not propose to conduct a bed and breakfast. A bed and breakfast requires a separate land use authorization, which the applicant could choose to apply for in the future.

9) **DEVELOPMENT STANDARDS. The following development standards shall be applicable to all wineries, cider businesses, and farm breweries authorized by this Chapter.**

- A. **A winery, cider business, or farm brewery shall provide parking for all activities or uses of the lot, parcel or tract on which the winery, cider business, or farm brewery is established.** [PCZO 117.110(A)]

Findings: Based on the applicant’s narrative, the winery is anticipated to operate a tasting room as well as hold events with no more than 30 patrons per event. The applicant did not specify the proposed size of the tasting room, or whether or not the tasting room would have regular hours of operation or be by appointment only. However, the applicant provided a tentative parking plan which includes four (4) parking areas that could accommodate 25 parking spaces. The tentative parking plan also includes two (2) loading zones.

Parking and loading standards are listed in PCZO Sections 112.210 -112.270; however, there are no specific standards for “wineries”. For the proposed tasting room, staff finds that this use is most similar to an “eating or drinking establishment” which requires a minimum of 1 space per 200 sq. ft. of gross floor area pursuant to PCZO 112.250(BB). Similarly, a wine production area would be most similar to a “manufacturing establishment” which requires one (1) space per 5,000 sq. ft. or one (1) space per employee, whichever is greater, pursuant to PCZO 112.250(DD). Staff recommends a condition of approval that prior to issuing building permits, the applicant shall provide a parking plan to the Polk County Community Development Department. The minimum number of parking spaces for the tasting room shall be calculated using the standards found in PCZO 112.250(BB). The minimum number of parking spaces for the wine production area shall be calculated using the standards found in PCZO 112.250(DD).

As discussed above, the applicant is proposing events for up to 30 patrons at a time which would be for the sale and promotion of wine. Because events could take place outdoors, staff finds that using a square footage metric may not fully capture the parking needs for the winery. Nevertheless, staff finds that 25 parking spaces as proposed by the applicant is reasonable to accommodate up to 30 patrons per event, as it is reasonable to assume an average of two people per car would attend these events which would require 15 parking spaces. This would leave 10 additional parking spaces for employees. To ensure that parking would be consistent with what was proposed and evaluated as part of this application, staff recommends a condition of approval that no less than 25 parking spaces shall be provided, including one (1) ADA space.

Appendix 1 (A) of Polk County’s parking standards, found in PCZO Chapter 112, states “For estimating available parking area use 350 sq. ft. per vehicle for stall, aisle and access area.” Based on this estimation, staff calculated the parking area size needed in order to accommodate 25 vehicles would be 8,750 sq. ft. According to the applicant’s narrative, the four (4) parking areas depicted on the tentative parking plan totals approximately 14,000 square feet in size. As previously mentioned, the subject property is approximately 67.1 acres in size and contains approximately 16.1 acres of

RECEIVED

MAR 17 2023

OWRD

RECEIVED

MAR 23 2023

OWRD

planted vineyards. Staff finds that based on the size of the portion of the subject property not dedicated to vineyards (approximately 51.0 acres) it is reasonable to conclude that the subject property could adequately provide 25 parking spaces for visitors and employees within the four (4) designated parking areas without removing any planted vineyards.

Loading area requirements are based on the square footage of the buildings for the intended use. As previously stated, the applicant proposes to construct a new structure for the winery to be used for wine production and wine tasting, but did not indicate the proposed size of the structure. Loading standards found in PCZO 112.260(B) requires one (1) loading space for up to 2,000 square feet of gross floor area and one (1) space for each additional 40,000 square feet of floor area. The applicant's narrative states that two (2) loading space would be provided that are 12 feet wide, 30 feet long, and 14 feet high. Staff recommends a condition of approval that loading spaces shall be provided pursuant to the criteria found in PCZO 112.260(B).

To ensure that all of these parking and loading standards are met, staff recommends a condition of approval that prior to issuing building permits, the applicant shall provide a parking plan to the Polk County Community Development Department. The minimum number of parking spaces for the tasting room shall be calculated using the standards found in PCZO 112.250(BB). The minimum number of parking spaces for the wine production area shall be calculated using the standards found in PCZO 112.250(DD). However, no less than 25 parking spaces, including one (1) ADA space, shall be provided. Loading spaces shall be provided pursuant to the criteria found in PCZO 112.260(B). Parking and loading areas shall be surfaced in gravel, asphalt or concrete, as required by PCZO 112.270(B). The parking plan shall meet all other applicable parking and loading standards set forth in PCZO Chapter 112. If at any time, more than 25 vehicles are on-site, the applicant shall be responsible for providing additional parking spaces consistent with the parking provisions of the Polk County Zoning Ordinance.

With these conditions, the application complies with these criteria.

B. An application for a winery, cider business, or farm brewery shall demonstrate compliance with:

- 1. Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access, and airport safety;**
- 2. Regulations of general applicability for the public health and safety; and**
- 3. Regulations for resource protection acknowledged to comply with any statewide goal regarding open spaces, scenic and historic areas, and natural resources. [PCZO 117.110(B)]**

Findings: Based on a review of FEMA, FIRM panel number 41053C0150F, dated December 19, 2006, the subject property is not located within the SFHA. Based on a review of the Polk County SRA map, the subject property does not contain any inventoried significant resources. There are no identified historic sites or Willamette River Greenway areas on the subject property.

According to the NWI Map, Mission Bottom quadrangle, there are six (6) inventoried wetlands on the subject property. These wetlands include four (4) freshwater ponds, one (1) freshwater emergent wetland, and one (1) riverine wetland that is associated with a tributary to Spring Valley Creek.

According to the Polk County SRA Map, this tributary is not a significant fish bearing stream. Therefore, the criteria for significant resources found in PCZO Chapter 182 are not applicable. Nevertheless, this report serves as notice to the property owners of the presence of wetlands on the subject property, and the possible need for State or Federal permits. Prior to any future development within the wetland areas, the property owners shall be responsible for ensuring that all applicable State or Federal permits have been obtained, such permits may include, but are not limited to, a Removal Fill Permit from the Oregon DSL.

Polk County's Environmental Health Division provided comments stating that a site evaluation to determine septic suitability for the winery/tasting room would be needed. If a wine tasting room and/or food service is proposed, the applicant must contact Oregon Department of Agriculture (ODA) for licensing requirements. If the winery is on a well, the applicant will need to contact Oregon Health Authority (OHA) drinking water program about establishing a water system. Additionally,

RECEIVED

MAR 27 2023

OWRD

RECEIVED

MAR 23 2023

OWRD

wastewater produced from production may require a Water Pollution Control Facility (WPCF) permit, contact the Department of Environmental Quality (DEQ).

DEQ provided comments stating that a Water Quality Permit may be required for the disposal of wastewater from winery operations. DEQ rules prohibit the discharge of this type of wastewater to the onsite sewage system. The applicant should contact Jennifer Maglinte-Timbrook at jennifer.maglinte-timbrook@deq.oregon.gov for more information. To ensure compliance, staff recommends a condition of approval that the applicant shall obtain all necessary permits from DEQ. Such permits may include, but are not limited to, a water quality permit for the discharge of waste water.

The applicant shall be responsible for ensuring that all other applicable State, Federal, or local licensing has been obtained. Such requirements may include, but are not limited to, a license from the Oregon Liquor Control Commission (OLCC); permits from the Oregon Department of Agriculture (ODA) for a tasting room; and a new or amended water right from the Oregon Water Resource Department (OWRD).

Prior to operating the winery, the property owners shall obtain all necessary permits from the Polk County Building and Environmental Health Divisions and the Polk County Public Works Department. These permits may include, but are not limited to the following: building, electrical, mechanical, and plumbing permits from the Building Division; a septic site evaluation and a septic construction permit from the Environmental Health Division; and a new or amended access permit from the Public Works Department.

In addition, prior to operating the winery, the applicant shall contact the Deputy State Fire Marshall for required access and water supply requirements.

With the above recommended conditions of approval, staff finds that application complies with these criteria.

C. For the purpose of limiting demonstrated conflicts with accepted farm and forest practices on adjacent lands, the proposed winery, cider business, or farm brewery shall:

- 1. Establish a setback of at least 100 feet from all property lines for the winery, cider business, or farm brewery, and all public gathering places, unless a variance is granted in compliance with Chapter 122 of the Polk County Zoning Ordinance; and**
- 2. Provide direct road access and internal circulation for the winery, cider business, or farm brewery, and for all public gathering places. [PCZO 117.110(C)]**

Findings: The subject property is located within the F/F zone and contains approximately 67.1 acres. According to data accessed through Polk County's GIS, neighboring properties are zoned F/F and Exclusive Farm Use (EFU). These neighboring properties range in size from approximately 12.4 acres to approximately 167.4 acres, and are primarily managed for agricultural and forestry uses. Common agricultural management practices on neighboring properties may include, but are not limited to, spraying, harvesting, and planting, which may cause dust, noise, and odors. Common forestry management practices may include, but are not limited to, timber harvesting and thinning, replanting, fertilizing, and spraying pesticides and herbicides which may create noise associated with the use of heavy equipment.

As discussed above, the applicant proposes to construct a new structure for the winery to include wine production and a tasting room. The applicant did not include the proposed size of said structure. However, the applicant did provide a plot plan depicting the approximate location of the proposed winery and tasting room structure. Staff used measurement tools accessed through Polk County's GIS and verified that proposed winery location would be more than 100 feet away from all property lines. To ensure compliance, staff recommends a condition of approval that any winery structures and public gathering places shall maintain a minimum 100 foot setback distance from all property lines.

RECEIVED

MAR 27 2023

OWRD

As discussed above, the applicant provided a tentative parking plan, which includes a parking area that could sufficiently accommodate at least 25 parking spaces. The tentative parking plan also depicts an area to allow cars to turn around as well as a separate driveway to enter and exit the property. Staff finds that this is sufficient to promote internal driveway circulation for the winery and that the tentative parking plan includes sufficient area to serve the winery. If at any time additional parking or loading is needed, the applicant shall be responsible to provide additional parking and/or loading in compliance with the parking and loading standards found in PCZO Chapter 112.

Dayton Fire District did not provide comments on this application. However, staff has recommended a condition of approval that prior to operating the winery, the applicant shall contact the Deputy State Fire Marshal for required access and water supply requirements.

With the conditions of approval referenced above, the application complies with this criterion.

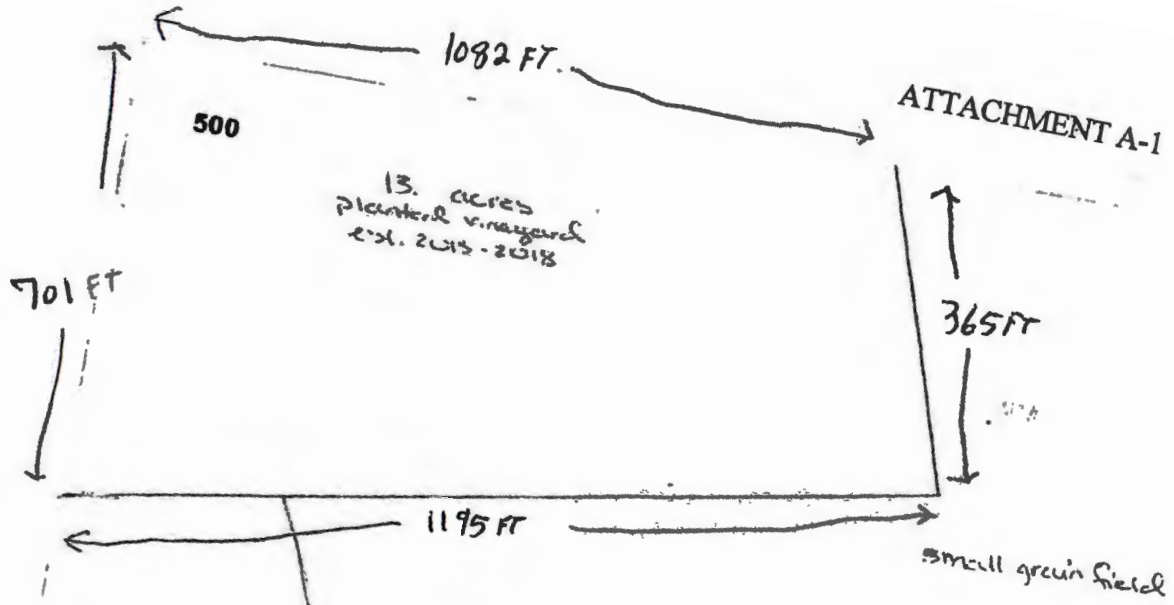
IV. CONCLUSION

Based on the Review and Decision Criteria above, the request to establish a winery on the subject property is **approved**. The application shall be subject to compliance with the conditions listed below, as required by the findings in the Review and Decision Criteria (Section III). Any modifications to conditions shall be approved in accordance with provisions of law (e.g., variance, or subsequent land use application, etc.).

Conditions of Development:

1. The winery's production level shall be limited to less than 50,000 gallons of wine per year.
2. At least 15 acres of planted vineyard shall be maintained on the subject property.
3. In addition to producing and distributing wine, the on-site winery may:
 - a. Market and sell wine produced in conjunction with the winery;
 - b. Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:
 - i. Wine tastings in a tasting room or other location on the premises occupied by the winery;
 - ii. Wine club activities;
 - iii. Winemaker luncheons and dinners;
 - iv. Winery and vineyard tours;
 - v. Meetings or business activities with winery suppliers, distributors, wholesale customers, and wine-industry members;
 - vi. Winery staff activities;
 - vii. Open house promotions of wine produced in conjunction with the winery; and
 - viii. Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.
 - c. Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:
 - i. Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or
 - ii. Served in conjunction with an activity authorized by Polk County Zoning Ordinance (PCZO) 117.020(D)(2), (4), or (5).
 - d. Host charitable activities for which the winery does not charge a facility rental fee.

4. Prior to carrying out any agri-tourism or other commercial events, a multi-year permit and/or license would be required pursuant to PCZO 117.020(D)(4), 117.020(G), 117.090, and 117.100.
5. The gross income of the winery from the sale of incidental items or services provided pursuant to subsection PCZO 117.020(D)(3) to (5) may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery.
6. At the request of Polk County, the winery shall submit a written statement prepared by a certified public accountant that certifies compliance with condition number 5 for the previous tax year. The written statement shall be accompanied by the appropriate planning fee for a land use condition of approval compliance review.
7. The on-site kitchen shall be licensed by the Oregon Health Authority (OHA) under ORS 624.010 to 624.121. Food and beverage services may not utilize menu options for meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.
8. Prior to operating the winery, the property owners shall obtain all necessary permits from the Polk County Building and Environmental Health Divisions and the Polk County Public Works Department. These permits may include, but are not limited to the following: building, electrical, mechanical, and plumbing permits from the Building Division; a septic site evaluation and a septic construction permit from the Environmental Health Division; and a new or amended access permit from the Public Works Department.
9. The proposed winery shall maintain a minimum of a 100 foot setback distance from all property lines. In addition, any public gathering places (including outdoors) shall not occur within 100 feet of any of the property lines.
10. Prior to issuing building permits, the applicant shall provide a parking plan to the Polk County Community Development Department. The minimum number of parking spaces for the tasting room shall be calculated using the standards found in PCZO 112.250(BB). The minimum number of parking spaces for the wine production area shall be calculated using the standards found in PCZO 112.250(DD). However, no less than 25 parking spaces, including one (1) ADA space, shall be provided. Loading spaces shall be provided pursuant to the criteria found in PCZO 112.260(B). Parking and loading areas shall be surfaced in gravel, asphalt or concrete, as required by PCZO 112.270(B). The parking plan shall meet all other applicable parking and loading standards set forth in PCZO Chapter 112. If at any time, more than 25 vehicles are on-site, the applicant shall be responsible for providing additional parking spaces consistent with the parking provisions of the Polk County Zoning Ordinance.
11. The applicant shall be responsible for ensuring that all other applicable State, Federal, or local permits or licensing have been obtained. Such requirements may include, but are not limited to, a license from the Oregon Liquor and Cannabis Commission (OLCC) for wine production, sale, and serving alcoholic beverages to the public; a Water Pollution Control Facility (WPCF) permit from the Oregon Department of Environmental Quality (DEQ) for on-site processed wastewater; a permit from the Oregon Department of Agriculture (ODA) for using water from a private well and for operating a tasting room; and a new or amended water right from the Oregon Water Resource Department (OWRD). Nothing in this land use authorization overrides any regulations administered by another government entity.
12. Prior to any future development within the wetland areas, the property owners shall be responsible for ensuring that all applicable State or Federal permits have been obtained, such permits may include, but are not limited to, a Removal Fill Permit from the Oregon Department of State Lands (DSL).
13. Prior to operating the winery, the applicant shall contact the Deputy State Fire Marshall for required access and water supply requirements.

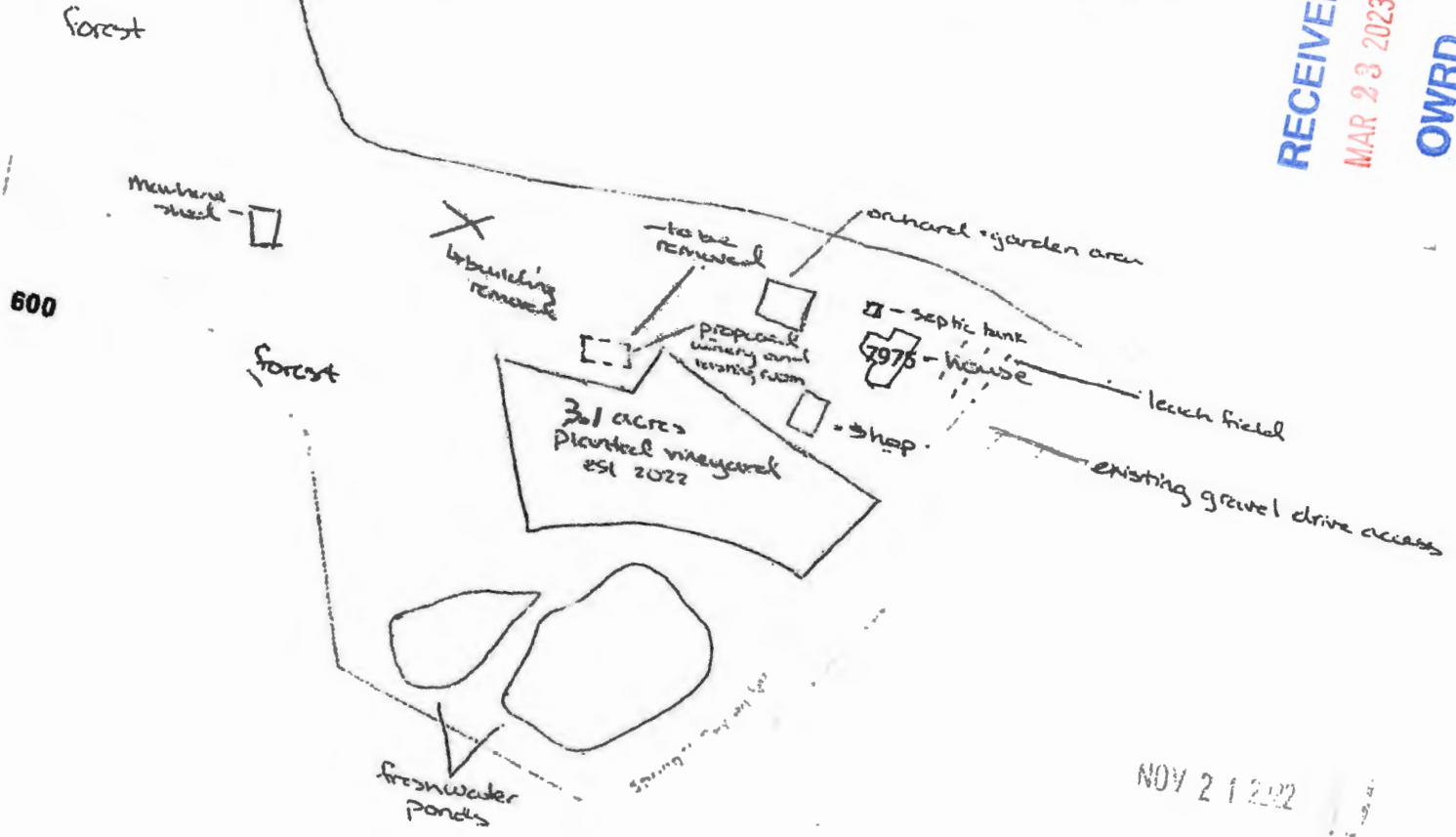


APPLICANT'S PLOT PLAN

RECEIVED
MAR 17 2023

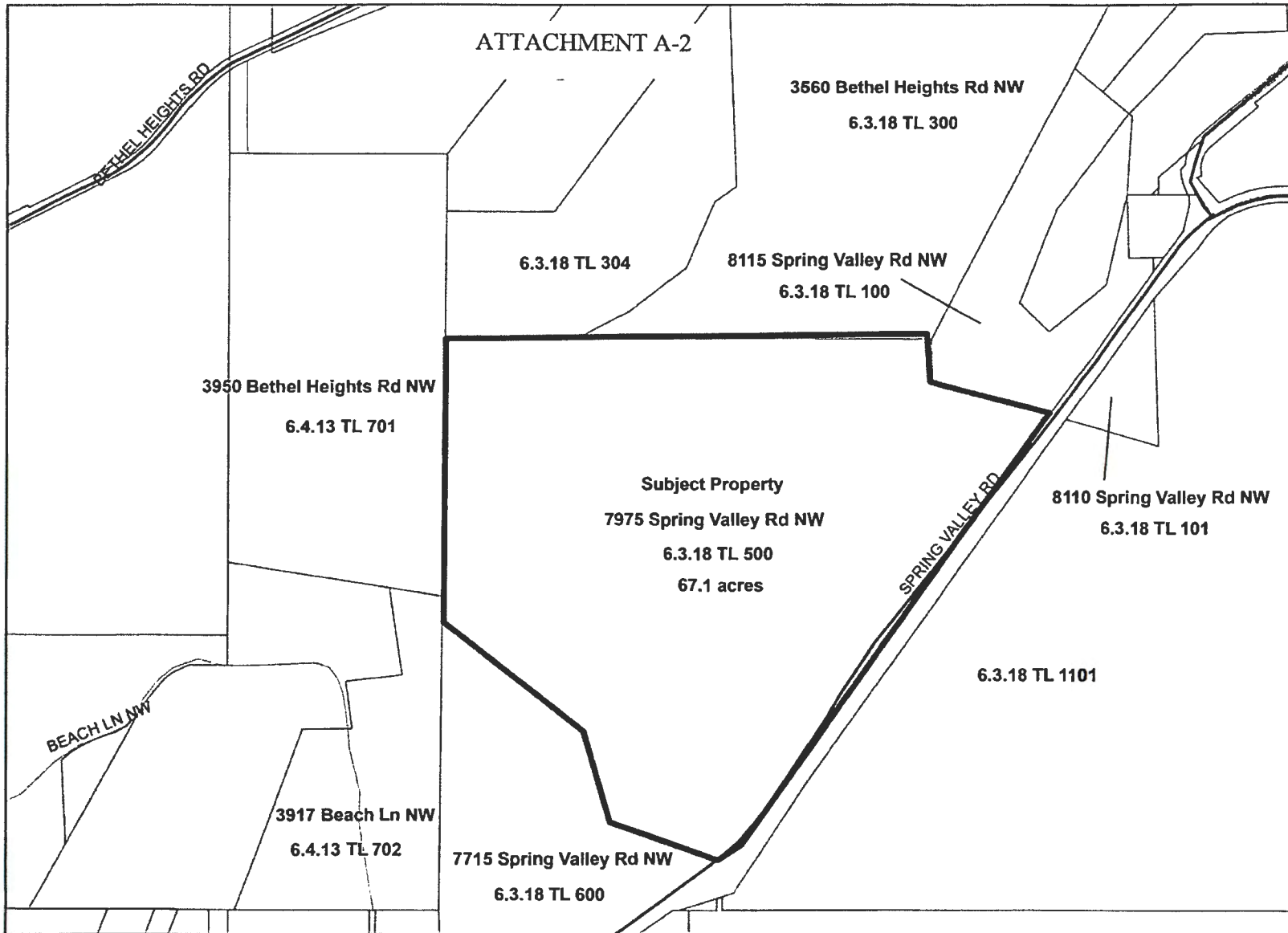
RECEIVED
MAR 23 2023

OWRD



NOV 21 2022
CITY OF...
COMMITTEE

STAFF MAP FOR LUD 22-78



RECEIVED
MAR 23 2023
OWRD

RECEIVED
MAR 17 2023
OWRD



Date: 11/23/2022

This map was produced from the Polk County geographic databases to support its governmental activities. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. The county is not responsible for any map errors, possible misuse, or misinterpretation. To report a map error, please call (503)623-0713.

BEN McKINNEY)
TO)
GRACE McKINNEY)

No. 13545

QUITCLAIM DEED

THIS INDENTURE WITNESSETH That Ben McKinney, husband of Grace McKinney, grantee herein, in consideration of ONE DOLLAR (\$1.00) by him received, has bargained and sold, and by these presents do bargain, sell, convey and quit claim unto Grace McKinney, an undivided one-half interest in and to the following described real premises, to-wit:

Commencing on the South line of the P. E. Smith and wife D. L. C. Notification No. 277, Claim No. 45, Township 6 South, Range 3 West of the Willamette River in Polk County, Oregon; 15.93 chains east of the southwest corner of said claim; thence east on said claim line 24.34 chains; thence north 26.25 chains; thence west by north 13.00 chains; thence north 2.39 chains; thence west 27.77 chains to the west line of said claim to a point 7.87 chains south from the northwest corner of said D. L. C.; thence south 23.64 chains; thence south 70° 47' east 17.53 chains; thence south 1.85 chains to the place of beginning, containing 115 acres, more or less; except, however, that certain tract of land containing about 5.117 acres described in that certain deed recorded on page 339 of Volume 67 of the Record of Deeds in and for Polk County, Oregon; Also, the water rights and privileges specified and conveyed in that certain deed recorded on page 330 of Volume 53 of the Record of Deeds for Polk County, Oregon, except therefrom, however, that portion thereof heretofore conveyed to W. J. Linfoot and Preston B. Blakley.

It is the intention of the grantor and grantee herein to create by this conveyance an estate by the entirety in and to the above described real property.

TO HAVE AND TO HOLD the above described premises, with their appurtenances, unto the said grantee, her heirs and assigns forever.

IN WITNESS WHEREOF I have hereunto set my hand and seal this 9th day of April, 1940.

WITNESSES:

BEN McKINNEY (SEAL)

RECEIVED
MAR 23 2023
OWRD

STATE OF OREGON,)
) ss.
County of Marion)

On this, the 9th day of April A. D. 1940, personally came before me, a Notary Public in and for the said County and State, the within named Ben McKinney, husband of Grace McKinney, the grantee herein, to me personally known to be the identical person described in, and who executed the within instrument, and who each personally acknowledged that he executed the same freely and voluntarily for the uses and purposes therein named, and without fear or compulsion from any one.

WITNESS my hand and seal this, the date first in this certificate written.

(NOTARIAL SEAL)

Guy O. Smith
Notary Public for Oregon
My commission expires February 13th, 1944.

Filed August 16, 1940, at 3:30 P.M.
C. S. GRAVES, COUNTY CLERK
By Eleanor Buhler, Deputy

Recorded by *Eleanor Buhler*,
Deputy.

RECEIVED
MAR 17 2023

No. 13556

SOUTHERN PACIFIC COMPANY)
TO)
QUENTIN LANE, ET UX)

QUITCLAIM DEED

OWRD

KNOW ALL MEN BY THESE PRESENTS, that SOUTHERN PACIFIC COMPANY a corporation created by and existing under laws of the state of Kentucky in consideration of the sum of One (\$1.00) Dollar to it paid by QUENTIN LANE and DORIS LANE, husband and wife, does hereby remise, release and forever QUITCLAIM unto the said QUENTIN LANE and DORIS LANE, and unto their heirs and assigns, all its right, title and interest in and to the following described parcel of real estate, situate in the County of Polk, State of Oregon, to-wit:

Seth A.Mills, et ux.)

to (QUIT CLAIM DEED.

#193.8

A.E.Chenoweth.)

KNOW ALL MEN BY THESE PRESENTS, That Seth A.Mills and Phoda J.Mills, his wife of lawful age, in consideration of One Dollars, to them paid by A.E.Chenoweth, do hereby remise, release and forever QUITCLAIM unto the said A.E.Chenoweth and unto his heirs and assigns, all our rights, title and interest in and to all that certain spring, situate in County of Yamhill State of Oregon, to-wit:

The right to use all the water from a spring deeded by Thomas Jennings and Mary E.Jennings to Seth A.Mills, and described as being situated 13.87 chains South and 8.40 chains West of the Northwest corner of the P.E.Smith Donation Land Claim, in Polk County, State of Oregon, also all my rights to lay pipes and to build reservoir and to do all necessary work in connection with and to carry out the privileges granted by Thomas Jennings and Mary E.Jennings to Seth A.Mills.

TO HAVE AND TO HOLD, the same, with all the privileges and appurtenances thereunto belonging to said A.E.Chenoweth and to his heirs and assigns forever.

IN WITNESS WHEREOF, We have hereunto set our hand and seal this 20th, day of December A.D. 1910

Signed, sealed and delivered in the presence of us as witnesses:

Ola R.Mills

Seth A.Mills

(Seal)

J.C.Colcord.

Rhoda J.Mills

(Seal)

STATE OF OREGON,)
County of Yamhill.) ss.

THIS CERTIFIES, That on this 20th day of December A.D. 1910, before me, the undersigned, a Notary Public in and for said County and State, personally appeared the within named Seth A.Mills and Rhoda J.Mills, his wife who are known to me to be the identical individual described in and who executed the within instrument, and acknowledged to me that they executed the same.

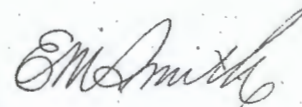
IN TESTIMONY WHEREOF, I have hereunto set my hand and Notarial seal the day and year last above written.

J.C.Colcord

(Seal)

Notary Public for Oregon.

Filed for record January 20th., 1911, at 1.01 P.M.



RECEIVED

Clerk

MAR 23 2023

By

Deputy.

OWRD

RECEIVED

MAR 17 2023

OWRD

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

AFTER RECORDING, RETURN TO:

Clark B. Williams
Heltzel Williams PC
PO Box 1048
Salem, OR 97308-1048

Consideration: \$0

Send Tax Statements To:
No change

RECORDED IN POLK COUNTY
Valerie Unger, County Clerk

2014-004082



\$61.00

00285043201400040820030038

05/21/2014 10:13:31 AM

REC-D Cnt=1 Stn=1 K. WILLIAMS
\$15.00 \$10.00 \$11.00 \$20.00 \$5.00

DEED

Arthur D. Kuenzi and Mary B. Kuenzi, as tenants by the entirety, as Grantor,

conveys to

Arthur Dean Kuenzi and Mary Beth Kuenzi, as Trustees of The Art and Mary Kuenzi Trust, under Agreement dated May 9, 2014, as Grantee,

the real property located in Polk County, Oregon and further described on Exhibit "A" attached hereto.

Grantor covenants that they are seized of an indefeasible estate in the real property described above in fee simple, that Grantor has the right to convey the property, that the property is free from encumbrances except those which are a matter of public record as of the date of this deed, and that Grantor warrants and will defend the title to the property against all persons who may lawfully claim the same by, through, or under Grantor, provided that the foregoing covenants are limited to the extent of coverage available to Grantor under any applicable standard or extended policies of title insurance, it being the intention of the Grantor to preserve any existing title insurance coverage.

WARNING. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT

1 - DEED

5/9/2014W:\clients\KU11989\001\00104927.DOCX

1/3

TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

The true consideration for this conveyance is \$0.

Duly executed May 9, 2014.

Arthur D. Kuenzi

Arthur D. Kuenzi

Mary B. Kuenzi

Mary B. Kuenzi

RECEIVED

MAR 23 2023

OWRD

GRANTOR

Marion County, Oregon - ss:

On this 9th day of May, 2014 personally appeared Arthur B. Kuenzi and Mary B. Kuenzi and acknowledged the foregoing instrument to be their voluntary act and deed.

Before me:

Karen M Neill

Notary Public for Oregon

My Commission Expires: 11/14/2015



RECEIVED

MAR 17 2023

OWRD

Order No. 021947P

RECEIVED

MAR 23 2023

OWRD

Exhibit 'A'

Commencing at the South line of the P.E. Smith and wife Donation Land Claim Notification No. 277, Claim No. 45, Township 6 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; 15.93 chains East of the Southwest corner of said claim; thence East on said claim line 24.34 chains; thence North 26.25 chains; thence West by North 13.00 chains; thence North 2.39 chains; thence West 27.77 chains to the West line of said claim to a point 7.87 chains South from the Northwest corner of said Donation Land Claim; thence South 23.64 chains; thence South 70°47' East 17.53 chains; thence South 1.85 chains to the place of beginning.

EXCEPT THEREFROM that certain tract of land described in that certain deed recorded on Page 339, of Volume 67 of the Record of Deeds in and for Polk County, Oregon.

FURTHER SAVE AND EXCEPT: Beginning at an iron bolt marking the Southeast corner of the Paschal E. Smith Donation Land Claim No. 45 in Sections 17 and 18, Township 6 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; and running thence from this the true point of beginning; North 88°05'05" West, along the South line of said Claim, 2612.66 feet to an iron bolt marking the division line of the East and West halves of said Smith Claim; thence continuing along the South line of said Claim, North 88°09'56" West, 1604.49 feet to an iron pipe marking the beginning point of that tract of land described in Volume 106, Page 258, Deed Records for Polk County, Oregon, which is recorded as being 1051.38 feet East of the Southwest corner of said Smith Claim; thence North 1°50'04" East 73.22 feet to an iron pipe on the Southerly line of County Road 633; thence North 72°14'20" East, along the Southerly line, 42.97 feet to an iron rod opposite Engineer's Station 30+85.00; thence North 34°05'22" East, along the Easterly line of said County Road, 450.69 feet to an iron rod opposite Engineer's Station P.S. 26+63.70; thence continuing along said Easterly line North 34°39'08" East, 360.83 feet and North 34°02'23" East 181.85 feet and North 40°22'38" East 596.94 feet and North 39°59'53" East 465.58 feet and North 38°39'58" East 78.50 feet to an iron pipe on the Northerly boundary line of said tract of land described in Volume 106, Page 258; thence South 72°42' East, along said Northerly line, 334.39 feet to an iron pipe marking the Northeast corner of said tract of land as described in Volume 106, Page 258, said iron pipe also being on the division line of the East and West halves of said Smith Claim; thence North 1°46'04" East, along said division line, 518.67 feet to an iron pipe; thence North 38°39'58" East, 229.20 feet to a point on the Easterly line of said County Road marking the beginning of a 447.46 foot radius curve to the right; thence Northeasterly on the arc of said 447.46 foot radius curve to the right to an iron rod marking the end of said curve the long chord bears North 65°15'07.5" East, a distance of 400.17 feet; thence along the Southerly line of said County Road South 88°11'15" East 561.91 feet to an iron pipe; thence South 1°48'45" West, a distance of 705.00 feet to an iron pipe; thence South 77°40' East 1618.20 feet to an iron pipe on the East line of said Smith Claim; thence South 3°00'48" West, 1618.08 feet to the point of beginning.

383

RECEIVED

MAR 17 2023

OWRD

Paula L. Eschtruth
3950 Bethel Height Road NW
Salem, OR 97304

Grantor's Name and Address

Paula L. Eschtruth, Trustee
The Paula L. Eschtruth Trust
Dated April 3, 2013
3950 Bethel Height Road NW
Salem, OR 97304

Grantee's Name and Address

After Recording Return to (Name, Address, ZIP):

Terence J. Yamada, Attorney at Law
9755 SW Barnes Road, Suite 675
Portland, OR 97225


Until Requested Otherwise Send All Tax Statements To (Name, Address, ZIP):

Paula L. Eschtruth, Trustee
The Paula L. Eschtruth Trust
Dated April 3, 2013
3950 Bethel Height Road NW
Salem, OR 97304

SPACE RESERVED
FOR
RECORDER'S USE

RECEIVED
MAR 23 2023
OWRD

RECORDED IN POLK COUNTY 2013-003667
Valerie Unger, County Clerk

 \$56.00
00269943201300036670030033 04/04/2013 03:22:32 PM

REC-BS Cnt=1 Stn=1 K. WILLIAMS
\$15.00 \$10.00 \$11.00 \$15.00 \$5.00

BARGAIN AND SALE DEED

The Grantor, Paula L. Eschtruth, for the consideration hereinafter stated, does hereby grant, bargain, sell and convey unto Paula L. Eschtruth, Trustee of the Paula L. Eschtruth Trust dated April 3, 2013, and to the Successor Trustee(s), of the Paula L. Eschtruth Trust dated April 3, 2013, hereinafter called Grantee, and unto Grantee's heirs, successors and assigns all of the Grantor's right, title and interest in that certain real property with the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining, situated in the County of Polk, State of Oregon, described as follows, to-wit:

Legal Description: See Exhibit A, attached hereto and incorporated herein by this reference as if fully set forth.

Commonly known as: 3950 Bethel Heights Road NW
Salem, Oregon 97304

Account No. 277071

To Have and to Hold the same unto the said Grantee and Grantee's heirs, successors and assigns forever.

The true and actual consideration paid for this transfer, stated in terms of dollars, is \$0.00.

This is a conveyance of the described property by Paula L. Eschtruth, to Paula L. Eschtruth as Trustee, and to the Successor Trustee(s), of the Paula L. Eschtruth Trust dated April 3, 2013, a Revocable Trust in which the Grantor is Trustor, Trustee and sole lifetime beneficiary.

In construing this deed and where the context so requires, the singular includes the plural and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and to individuals.

In Witness Whereof, the Grantor has executed this instrument this 3rd day of April, 2013; if a corporate grantor, it has caused its name to be signed and its seal affixed by an officer or other person duly authorized to do so by order of its board of directors.

RECEIVED
MAR 17 2023
OWRD
1/3

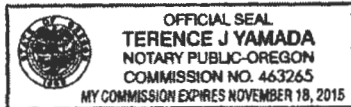
BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 or 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 and 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS, 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

Paula L. Eschtruth
Paula L. Eschtruth

STATE OF OREGON)
) ss
County of Washington)

I certify that I know or have satisfactory evidence that Paula L Eschtruth is the person who appeared before me, and said person acknowledged that she signed this instrument and acknowledged it to be her free and voluntary act for the uses and purposes mentioned in this instrument.

Dated this 3rd day of April, 2013.



Terence J Yamada
Notary Public in and for the State of Oregon

2/3

RECEIVED
MAR 23 2023
OWRD

RECEIVED
MAR 17 2023
OWRD

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL I

Beginning at an iron pipe on the West line of Section 18, in Township 6 South, Range 3 West of the Willamette Meridian in Polk County, Oregon, said iron pipe is 251.70 feet North 0°19' East from the quarter corner on the West line of said Section; thence North 0°19' East 1,526.00 feet along said line to an iron pipe at the Southwest corner of the David McDonald Donation Land Claim No. 44; thence East 808.13 feet to an iron pipe North of the Northwest corner of the P.E. Smith Donation Land Claim No. 45; thence South 146.52 feet to a stone at said Northwest corner; thence South 1,486.85 feet along the West line of said P.E. Smith Donation Land Claim to an iron pipe; thence North 82°30' West, 823.62 feet to the pipe at the place of beginning.
Tax Acct.No.: 32-11 6-4-13 701

PARCEL II

Beginning at an iron pipe at the Southwest corner of the David McDonald Donation Land Claim No. 44 in Section 18, Township 6 South, Range 3 West of the Willamette Meridian in Polk County, Oregon; thence North 330.00 feet along the West line of said McDonald Claim to a point in the County Road; thence North 68°23' East 75.29 feet to a point in said road; thence South 337.74 feet on a line parallel and 70 feet East of the West line of said McDonald Claim to a point on the South line of McDonald Claim; thence West 70.00 feet along said South line to the place of beginning.
Tax Acct. No.: 32-11 6-3-18 301

3/3

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

RECEIVED
NOV 26 1982
STATE ENGINEER
SALEM OREGON

Permit No. 28503

APPLICATION FOR PERMIT

To Appropriate the Public Waters of the State of Oregon

I, Grace McKinney
(Name of applicant)
of Route 1 Box 643 Salem
(Mailing address)
State of Oregon, do hereby make application for a permit to appropriate the following described public waters of the State of Oregon, SUBJECT TO EXISTING RIGHTS:

If the applicant is a corporation, give date and place of incorporation

1. The source of the proposed appropriation is a spring
(Name of stream)
Spring Valley Creek
a tributary of

2. The amount of water which the applicant intends to apply to beneficial use is 0.1
cubic feet per second. 0.01
(If water is to be used from more than one source, give quantity from each)

3. The use to which the water is to be applied is Domestic
(Irrigation, power, mining, manufacturing, domestic supplies, etc.)

4. The point of diversion is located 1018 ft. S and 554 ft. W from the NW
corner of Pascal E Smith DLC #45
(Section or subdivision)

(If there is more than one point of diversion, each must be described. Use separate sheet if necessary)
being within the SW 1/4 of the NW 1/4 of Sec. 18, Tp. 6S
(Give smallest legal subdivision) (N. or S.)
R. 3W, W. M., in the county of Polk
(E. or W.)

5. The pipe line to be 1900
(Ditch, canal or pipe line) (Miles or feet)
in length, terminating in the NE 1/4 of the SW 1/4 of Sec. 18, Tp. 6S
(Smallest legal subdivision) (N. or S.)
R. 3W, W. M., the proposed location being shown throughout on the accompanying map.
(E. or W.)

DESCRIPTION OF WORKS

Diversion Works—

6. (a) Height of dam _____ feet, length on top _____ feet, length at bottom _____ feet; material to be used and character of construction _____
(Loose rock, concrete, masonry, rock and brush, timber crib, etc., waterway over or around dam)

(b) Description of headgate _____
(Timber, concrete, etc., number and size of openings)

(c) If water is to be pumped give general description _____
(Size and type of pump)
(Size and type of engine or motor to be used, total head water is to be lifted, etc.)

*A different form of application is provided where storage works are contemplated.
Application for permits to appropriate water for the generation of electricity, with the exception of municipalities, must be made to the Hydroelectric Commission. Either of the above forms may be amended, without cost, together with instructions by addressing the State Engineer, Salem, Oregon.

RECEIVED
MAR 17 2023
OWRD
MAR 23 2023

28503

Canal System or Pipe Line—

7. (a) Give dimensions at each point of canal where materially changed in size, stating miles from headgate. At headgate: width on top (at water line) feet; width on bottom feet; depth of water feet; grade feet fall per one thousand feet.

(b) At miles from headgate: width on top (at water line) feet; width on bottom feet; depth of water feet; grade feet fall per one thousand feet.

(c) Length of pipe ft.; size at intake in.; size at from intake in.; size at place of use in.; difference in elevation between intake and place of use ft. Is grade uniform? Estimated capacity sec. ft.

8. Location of area to be irrigated, or place of use

Table with 5 columns: Township North or South, Range E. or W. of White-water Meridian, Section, Forty-acre Tract, Number Acres To Be Irrigated. Handwritten entry: T6S, R3W, 18, NE 1/4 of the SW 1/4, Domestic.

For legal description upon which the water will be used, see certified copy of deed hereto attached, which deed was recorded August 16, 1940, in Volume 106, on Page 258, of the Deed Records for Polk County, Oregon.

(If more space required, attach separate sheet)

(a) Character of soil
(b) Kind of crops raised

Power or Mining Purposes—

9. (a) Total amount of power to be developed theoretical horsepower
(b) Quantity of water to be used for power sec. ft.
(c) Total fall to be utilized feet.
(d) The nature of the works by means of which the power is to be developed

(e) Such works to be located in of Sec.

Tp. R. W. M.

(f) Is water to be returned to any stream?

(g) If so, name stream and locate point of return

Sec. Tp. R. W. M.

(h) The use to which power is to be applied is

(i) The nature of the mines to be served

RECEIVED

MAR 17

OWR

RECEIVED

MAR 23 202

OWRD

10. (a) To supply the city of _____
County, having a present population of _____
and an estimated population of _____ in 19 _____

(b) If for domestic use state number of families to be supplied 1 Family

(Answer questions 11, 12, 13, and 14 in all cases)

11. Estimated cost of proposed works, \$ 500.00
12. Construction work will begin on or before _____ Completed
13. Construction work will be completed on or before _____ Completed
14. The water will be completely applied to the proposed use on or before _____ Completed

Grace A. McKinney
(Signature of applicant)

Remarks:

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

STATE OF OREGON, }
County of Marion, } ss.

This is to certify that I have examined the foregoing application, together with the accompanying maps and data, and return the same for completion

In order to retain its priority, this application must be returned to the State Engineer, with corrections on or before February 12, 19 63

WITNESS my hand this 12 day of _____, December, 19 62

CHRIS L. WHEELER

STATE ENGINEER

By

Walter G. King

ASSISTANT

PERMIT

STATE OF OREGON, }
County of Marion, } as.

This is to certify that I have examined the foregoing application and do hereby grant the same, SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

The right herein granted is limited to the amount of water which can be applied to beneficial use and shall not exceed 0.01 cubic feet per second measured at the point of diversion from the stream, or its equivalent in case of rotation with other water users, from a spring

The use to which this water is to be applied is domestic use of one family

If for irrigation, this appropriation shall be limited to - - of one cubic foot per second or its equivalent for each acre irrigated

RECEIVED

MAR 23 2023

RECEIVED

MAR 17 2023

OWRD

OWRD

and shall be subject to such reasonable rotation system as may be ordered by the proper state officer.

The priority date of this permit is November 26, 1962

Actual construction work shall begin on or before March 15, 1964 and shall

thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1964

Complete application of the water to the proposed use shall be made on or before October 1, 1965

WITNESS my hand this 15th day of March, 1963

Chris L. Wheeler
STATE ENGINEER

Application No. 26245
Permit No. 28503

PERMIT

TO APPROPRIATE THE PUBLIC WATERS OF THE STATE OF OREGON

This instrument was first received in the office of the State Engineer at Salem, Oregon, on the 15th day of November, 1962 at 8:00 o'clock P. M.

Returned to applicant:

Approved:

March 15, 1963

Recorded in book No. 79

28503

Permits on page

CHRIS L. WHEELER
STATE ENGINEER

Drainage Basin No. 2 page 76A27

Fees

Minimum Requirements Checklist

Minimum Requirements (OAR 690-310-0040, OAR 690-310-0050 & ORS 537.140)

Include this checklist with the application

Check that each of the following items is included. The application will be returned if all required items are not included. If you have questions, please call the Water Rights Customer Service Group at (503) 986-0900.

Please submit the original application and signatures to the Water Resources Department. Applicants are encouraged to keep a copy of the completed application.

- SECTION 1: Applicant Information and Signature
- SECTION 2: Property Ownership
- SECTION 3: Source of Water
- SECTION 4: Sensitive, Threatened or Endangered Fish Species Public Interest Information
- SECTION 5: Water Use
- SECTION 6: Water Management
- SECTION 7: Resource Protection
- SECTION 8: Project Schedule
- SECTION 9: Within a District
- SECTION 10: Remarks

RECEIVED

MAR 23 2023

OWRD

RECEIVED

MAR 17 2023

OWRD

Include the following additional items:

- Land Use Information Form with approval and signature of local planning department (*must be an original*) or signed receipt.
- Provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.
- Fees - Amount enclosed: \$_____

See the Department's Fee Schedule at www.oregon.gov/owrd or call (503) 986-0900.
- Map that includes the following items:
 - Permanent quality and drawn in ink
 - Even map scale not less than 4" = 1 mile (example: 1" = 400 ft, 1" = 1320 ft, etc.)
 - North Directional Symbol
 - Township, Range, Section, Quarter/Quarter, Tax Lots
 - Reference corner on map
 - Location of each diversion, by reference to a recognized public land survey corner (distances north/south and east/west)
 - Indicate the area of use by Quarter/Quarter and tax lot identified clearly.
 - Number of acres per Quarter/Quarter and hatching to indicate area of use if for primary irrigation, supplemental irrigation, or nursery
 - Location of main canals, ditches, pipelines or flumes (if well is outside of the area of use)

Water-Use Permit Application Processing

1. Completeness Determination

The Department evaluates whether the application and accompanying map contain all of the information required under OAR 690-310-0040 and OAR 690-310-0050. The Department also determines whether the proposed use is prohibited by statute. If the Department determines that the application is incomplete, all fees have not been paid, or the use is prohibited by statute, the application and all fees submitted are returned to the applicant.

2. Initial Review

The Department reviews the application to determine whether water is available during the period requested, whether the proposed use is restricted or limited by rule or statute, and whether other issues may preclude approval of or restrict the proposed use. An Initial Review (IR) containing preliminary determinations is mailed to the applicant. The applicant has 14 days from the mailing date to withdraw the application from further processing and receive a refund of all fees paid minus \$310. The applicant may put the application on hold for up to 180 days and may request additional time if necessary.

3. Public Notice

Within 7 days of the mailing of the initial review, the Department gives public notice of the application in the weekly notice published by the Department at www.oregon.gov/owrd. The public comment period is 30 days from publication in the weekly notice.

4. Proposed Final Order Issued

The Department reviews any comments received, including comments from other state agencies related to the protection of sensitive, threatened or endangered fish species. Within 60 days of completion of the IR, the Department issues a Proposed Final Order (PFO) explaining the proposed decision to deny or approve the application. A PFO proposing approval of an application will include a draft permit, and may request additional information or outstanding fees required prior to permit issuance.

5. Public Notice

Within 7 days of issuing the PFO, the Department gives public notice in the weekly notice. Notice includes information about the application and the PFO. Protest must be received by the Department within 45 days after publication of the PFO in the weekly notice. Anyone may file a protest. The protest filing fee is \$480.00 for the applicant and \$950.00 for non-applicants. Protests are filed on approximately 10 percent of Proposed Final Orders. If a protest is filed the Department will attempt to settle the protest but will schedule a contested case hearing if necessary.

6. Final Order Issued

If no protests are filed, the Department can issue a Final Order within 60 days of the close of the period for receiving protest. If the application is approved, a permit is issued. The permit specifies the details of the authorized use and any terms, limitations or conditions that the Department deems appropriate

RECEIVED

MAR 17 2023

OWRD

For Department Use: App. Number: _____



RECEIVED
MAR 23 2023
OWRD

RECEIVED
MAR 17 2023
OWRD

Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Art Kuenzi

7975 Spring Valley Rd NW, Salem OR 97304

Transaction Type: Surface Water

Fees Received: \$ 1500.00

Cash

Check:

Check No. 6992

Name(s) on Check: Arthur Kuenzi

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

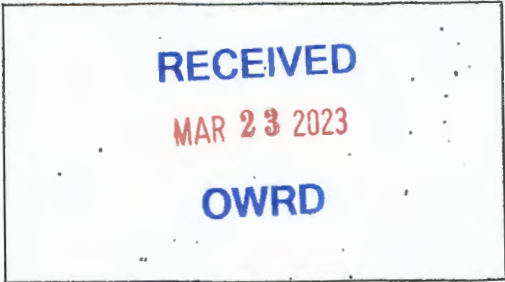
Sincerely,

OWRD Customer Service Staff

Submission received by: Conie Lounien
(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe sbt. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.



Date Received (Date Stamp Here)

OWRD Over-the-Counter Submission Receipt

Applicant Name(s) & Address: Art Kuenzi: 7975 Spring Valley Rd. NW Salem OR 97304

Transaction Type: Surface Water Application

Fees Received: \$ 1500

Cash Check; Check No. 6992

Name(s) on Check: Arthur D. Kuenzi
Marybeth Kuenzi

Thank you for your submission. Oregon Water Resources Department (Department) staff will review your submittal as soon as possible.

If your submission is determined to be complete, you will receive a receipt for the fees paid and an acknowledgement letter stating your submittal is complete.

If determined to be incomplete, your submission and the accompanying fees will be returned with an explanation of deficiencies that must be addressed in order for the submittal to be accepted.

If you have any questions, please feel free to contact the Department's Customer Service staff at 503-986-0801 or 503-986-0810.

Sincerely,
OWRD Customer Service Staff

Submission received by: Nick Reeve
(Name of OWRD staff)

Instructions for OWRD staff:

- Complete this Submission Receipt and make two (2) copies. Place one copy with the check/cash; and place the other copy with the submission (i.e., the application or other document).
- Date-stamp all pages. (NOTE: Do not stamp check.)
- Give this original Submission Receipt to the applicant.
- Record Submission Receipt Information on the "RECEIVED OVER THE COUNTER" log sheet.
- Fold and put one copy of the Submission Receipt with check/cash into the Safe slot. Place the other copy of the Submission Receipt with submission (application/other document) in the top drawer of filing cabinet.