



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CERTIFIED MAIL Return Receipt Requested

September 23, 2005

LA GRANDE FARM
ATTENTION: JAMES HABBERSTAD
106 EAST FOURTH STREET
SECOND FLOOR
THE DALLES, OREGON 97058-1802

(541)993-2156

Reference: File G-16446

Dear Applicant:

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.

This letter is to inform you of the preliminary analysis of your water use permit application and to describe your options. In determining whether a water use permit application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule except where otherwise noted below.
2. The use of water from Well #12 (UNIO 51315) in Catherine Creek Basin for irrigation use is **allowable** under OAR 690-508, the Grande Ronde Basin Program.
3. The Department has determined, based upon OAR 690-09, that the proposed groundwater use will not have the potential for substantial interference with any surface water source.
4. The Department has also determined, based upon available data, that the use of groundwater in the amount of 0.35 cubic foot per second (cfs) will likely be available in the amounts requested without injury to prior rights and/or within the capacity of the

resource.

5. A portion of the area proposed to be irrigated under this application, being 160.0 acres in the SE 1/4 of Section 24, Township 3 South, Range 39 East, W.M., is currently covered by an application for water permit evidenced by Application G-16172, which conflicts with your application. This application G-16446 proposes to use ground water from a different aquifer (source). Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The use of 0.35 cubic foot per second from Well #12 in Catherine Creek Basin for irrigation use on 200.0 acres; supplemental irrigation use on 406.2 acres may be allowed from March 1 through October 31 of each year.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process. This phase is where public interest factors will be evaluated.

Additional Information Required

According to Department records, there is an application for a permit to use ground water, Application G-16172, covering a portion of the same land proposed under this application, being 160.0 acres in the SE 1/4 of Section 24, Township 3 South, Range 39 East, W.M. Application G-16172 proposes to use ground water from the basalt aquifer, which is a different source than ground water from Well #12 under Application G-16446 which proposes to use ground water from an alluvial aquifer.

Presuming that a permit will be issued for Application G-16172, if a permit is issued for this application, it will likely be conditioned such that the conflicting portion of the new permit is limited to supplemental use, which means it can be used only when the primary source of water is unavailable. The period during which the supplemental portion may be used will be limited to the same period as the primary right, and if after you prove up on the permit, the primary right is canceled, the supplemental right will also be canceled. If a permit is issued it will also likely allow you to prove up on your use as primary under certain conditions (see "If A Permit Is Issued..." section below).

Presuming that a permit is issued for Application G-16172, if you would like to use water under a permit for Application G-16446, if issued, for primary use rather than supplemental, you may cancel the underlying right; transfer it to other lands; diminish it to supplemental; or withdraw the conflicting portion of your new application. For more information regarding these options, please contact the Department. Again, if the conflict is not resolved prior to permit issuance, any permit issued will likely be conditioned such that the conflicting portion of the new permit is limited to supplemental use, it will allow you to prove up on your use as primary under certain conditions.

If you do not intend to withdraw your application, please submit the information resolving the conflict no later than Thursday, October 27, 2005.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

At this time, you must decide whether to proceed or to withdraw your application as described below.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, October 7, 2005**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.

2. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
3. The use described herein may be considered primary irrigation at the time of perfection of the appropriation, provided the underlying water right has been canceled, diminished, or transferred to other lands, and if the water has been beneficially used as the primary source for the use as described in this permit. Issuance of this permit does not confirm the validity of any underlying right or claim.
4. The priority date for this application is April 22, 2005.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oda.state.or.us/nrd/water_quality/index.html to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our customer service staff at 503-986-0801. Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter. Please have your application number available if you call. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271, Fax: 503-986-0901.

Sincerely,



Kerry Lefever
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-16446, wab 8-30810408, pou 8-30810408, gw a

APPLICATION FACT SHEET

Mail to: *Applicant, Watermaster, District Biologist (ODFW)*

If necessary, also mail to : Regional Water quality manager (DEQ), and DOA

Application File Number: G-16446

Applicant: LA GRANDE FARM; ATTENTION: JAMES HABBERSTAD

County: UNION

Watermaster: 6

Priority Date: APRIL 22, 2005

Source: WELL 12 IN CATHERINE CREEK BASIN

Use: IRRIGATION USE ON 200.0 ACRES; SUPPLEMENTAL IRRIGATION USE ON 406.2 ACRES

Quantity: 0.35 CUBIC FOOT PER SECOND

Basin Name & Number: Grande Ronde, #8

Stream Index Reference: Volume 3 CATHERINE CR

Well Location: SWSW, SECTION 24, T3S, R39E, W.M.; 1075 FEET NORTH & 100 FEET EAST FROM SW CORNER, SECTION 24

Place of Use:

		Primary	Supplemental
NE $\frac{1}{4}$	SE $\frac{1}{4}$	40.0 ACRES	
NW $\frac{1}{4}$	SE $\frac{1}{4}$	40.0 ACRES	
SW $\frac{1}{4}$	SE $\frac{1}{4}$	40.0 ACRES	
SE $\frac{1}{4}$	SE $\frac{1}{4}$	40.0 ACRES	
		SECTION 24	
NE $\frac{1}{4}$	NE $\frac{1}{4}$	40.0 ACRES	
SW $\frac{1}{4}$	NW $\frac{1}{4}$		0.6 ACRE
SE $\frac{1}{4}$	NW $\frac{1}{4}$		0.6 ACRE
NE $\frac{1}{4}$	SW $\frac{1}{4}$		34.4 ACRES
NW $\frac{1}{4}$	SW $\frac{1}{4}$		34.7 ACRES
SW $\frac{1}{4}$	SW $\frac{1}{4}$		27.2 ACRES
SE $\frac{1}{4}$	SW $\frac{1}{4}$		26.7 ACRES
		SECTION 25	

	Primary	Supplemental
NE $\frac{1}{4}$ NW $\frac{1}{4}$		34.1 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$		33.2 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$		28.3 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$		28.0 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$		40.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$		39.6 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$		39.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$		39.6 ACRES
SECTION 36		
TOWNSHIP 3 SOUTH, RANGE 39 EAST, W.M.		

14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 7, 2005

PUBLIC NOTICE DATE: Tuesday, September 27, 2005

30 DAY COMMENT DEADLINE DATE: Thursday, October 27, 2005