



# 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

July 21, 2006

ROVEY FARMS  
ATTENTION: BYRON ROVEY  
58777 GODLEY ROAD  
LA GRANDE, OR 97850

Reference: File G-16496

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 159.2 acres proposed to be irrigated in the SW 1/4 of Section 24, Township 3 South, Range 39 East, W.M., are covered under permit G-15979. You have notified the Department that you propose for the acres under conflict shall be considered supplemental under this application G-16496. Therefore the Department will consider the entire acreage, 957.2 acres, to be proposed for supplemental irrigation.
4. Ground water will likely be available in the amounts requested without injury to prior rights and within the capacity of the resource.

The Department has determined, based upon OAR 690-09, that the proposed ground water use will not have the potential for substantial interference with any surface water source.

5. The proposed ground water use is located above the Grande Ronde Scenic Waterway, as designated under ORS 390.826. The Groundwater Section reviewed the application per OAR 690-310-0260, and determined that there is a preponderance of evidence that the proposed use of groundwater 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. Please refer to the **Additional Information Opportunity** section below for details.

### **Summary of Initial Determinations**

**Because not all items above are favorable, the use of 0.35 cubic foot per second (CFS) from Well 12 (UNIO 51315) in Catherine Creek Basin for supplemental irrigation use on 957.2 acres is not allowable, and it appears unlikely that you will be issued a permit. At this time, you must decide whether to proceed or to withdraw your application as described below.**

### **Additional Information Opportunity**

As noted above, the proposed use is located above the Grande Ronde Scenic Waterway. The Groundwater Section reviewed the application per OAR 690-310-0260, and determined there is a preponderance of evidence that the proposed use of groundwater 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. When the Department makes this finding, the Department must deny the application unless:

- (a) Mitigation is provided in accordance with provisions of ORS 390.835(9); or
- (b) The applicant submits evidence to overcome the finding.

If you would like to pursue a permit under this application, you may submit a mitigation proposal or evidence to overcome the finding. The Department will consider the information and determine if the proposal will ensure the maintenance of the free-flowing character of the scenic waterway in quantities necessary for recreation, fish and wildlife.

**Please submit this information no later than Thursday, August 24, 2006.** If you wish, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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.

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.

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, August 4, 2006**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
  - 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.
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.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a proposed final order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

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.oregon.gov/ODA/NRD/water\\_agplans.shtml](http://www.oregon.gov/ODA/NRD/water_agplans.shtml) to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

# 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-16496

Applicant: ROVEY FARMS; BYRON ROVEY

County: Union

Watermaster: 6

Priority Date: July 18, 2005

Source: WELL 12 (UNIO 51315) IN CATHERINE CREEK BASIN

Use: IRRIGATION USE ON 159.2 ACRES; SUPPLEMENTAL IRRIGATION USE ON 798.0 ACRES

Quantity: 0.35 CUBIC FOOT PER SECOND

Basin Name & Number: Grande Ronde, #8

Stream Index Reference: Volume 3 MILL CR & MISC AT COVE

Well Location: NWSW, SECTION 24, T3S, R39E, W.M.;1680 FEET SOUTH & 2500 FEET WEST FROM C1/4 CORNER, SECTION 24

Place of Use:

	<u>Primary</u>	<u>Supplemental</u>
NE ¼ SW ¼	40.0 ACRES	
NW ¼ SW ¼	39.6 ACRES	
SW ¼ SW ¼	39.6 ACRES	
SE ¼ SW ¼	40.0 ACRES	
SECTION 24		
SW ¼ NE ¼		40.0 ACRES
SE ¼ NE ¼		39.6 ACRES
SW ¼ NW ¼		40.0 ACRES
SE ¼ NW ¼		40.0 ACRES
NE ¼ SW ¼		40.0 ACRES
NW ¼ SW ¼		40.0 ACRES
SW ¼ SW ¼		40.0 ACRES
SE ¼ SW ¼		40.0 ACRES
NE ¼ SE ¼		39.6 ACRES
NW ¼ SE ¼		40.0 ACRES
SW ¼ SE ¼		40.0 ACRES
SE ¼ SE ¼		39.6 ACRES
SECTION 26		

Place of Use:

Primary

Supplemental

NE ¼ NE ¼	39.6 ACRES
NW ¼ NE ¼	40.0 ACRES
SW ¼ NE ¼	40.0 ACRES
SE ¼ NE ¼	39.6 ACRES
NE ¼ NW ¼	40.0 ACRES
NW ¼ NW ¼	40.0 ACRES
SW ¼ NW ¼	40.0 ACRES
SE ¼ NW ¼	40.0 ACRES

SECTION 35

TOWNSHIP 3 SOUTH, RANGE 39 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 4, 2006**

**PUBLIC NOTICE DATE: Tuesday, July 25, 2006**

**30 DAY COMMENT DEADLINE DATE: Thursday, August 24, 2006**