

APPLICATION FOR EXTENSION OF TIME TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Scott Balin 1/2 Balin Ranches
NAME

13600 Homedale Rd Klamath Falls, 97603 (841) 882-97
ADDRESS CITY STATE ZIP PHONE 11 891-790

owner of record, or duly authorized agent, of Application No. ~~6-12472~~ Permit No. ~~6-12458~~, do hereby request that the time in which to:

6-12972 6-12458

complete the construction of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 2000, be extended to October 1, 2002

and/or the time in which to:

accomplish beneficial use of water to the full extent under the terms of the permit, which time now expires on October 1, 2000, be extended to October 1, 2002

NOTE: The extension of time requested should be long enough to finish the project. Should this request be approved, it will be the Department's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.

Attached is an instruction sheet to assist you in completing the information on the permit extensions application form. Oregon Water Law and Administrative Rules requires this information to be considered by the Water Resources Department when reviewing a permit extension. All items must be completed or the application will be returned. Please feel free to provide the Department with any additional information that would aid us in making our decision. Please use additional sheets of paper as needed to fully respond to the questions.

After reviewing the application form and the instruction sheet, if you have any questions, please contact the Department at 1-800-624-3199, or locally in the Salem vicinity at (503) 378-3739, and request assistance from the Water Rights Division, permit extensions personnel.

1-Did water system construction/well drilling begin within the time specified in the permit yes?

2-Has construction of diversion/appropriation works, distribution system, and use of water, if any, been accomplished consistent with the limitations and conditions of this permit yes?

JB 10/30/01

A) Please describe how you have complied with each applicable permit condition (NOTE: the instruction sheet for permit extension applications provides some direction as to what is an "applicable" condition at time of permit extension review).

Plan is attached

B) If you have not complied with all applicable conditions, please explain the reasons why and indicate a date certain, in the near future, by which time you will be in compliance with applicable conditions.

We have complied with all conditions set forth on permit

3-I have accomplished the following described works, purchases and installation of equipment necessary to the use of water under said permit:

A) Within the past year or, if a prior extension was authorized, during the last permit extension period:

NA

B) Prior to the past year or, if a prior extension was authorized, prior to the last extension period:

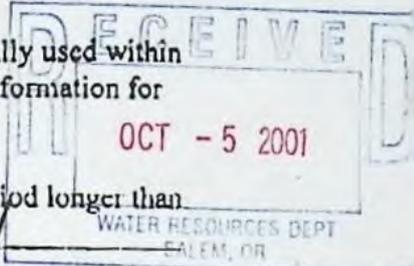
Have complied 3 years ago

C) I have accomplished beneficial use of water under the permit to the extent of (amount of water used or acres irrigated):

Yes able to irrigate for beneficial use if needed to all lands applied for.

4-Cost of project to date 70,000. Estimated remaining cost to complete the project 0.

5-Please list the reasons why the project was not constructed, and/or water not beneficially used within permit time limits under the appropriate categories below. Please provide supporting information for each reason identified.



A) The project is of a size and scope that the original intent was to phase it in over a period longer than the timeframes allowed in the permit.

The time period allowed was not long enough to justify purchasing additional equipment because of financial problems, and uncertainty of ground water study, to see if we could use them even if our primary source is shut off.

B) Financing and/or cash-flow needs to develop the project precluded completion of the project within authorized timeframes.

We have provided all the financing up to now to finish project. Finished putting water and plumbing in.

C) Good faith attempts to comply with permit conditions and/or to acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.

We attempted to complete project but government regulations prevent use to be comfortable to finish project. We need this alternative source of water since a primary source is less dependable.

D) Acts of God or other unforeseen events delayed full development of the water system and use of water.

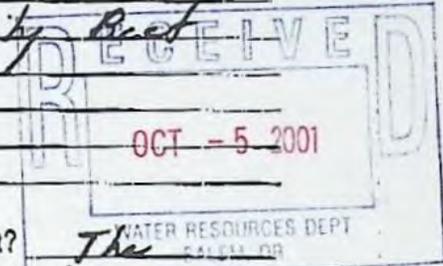
Big Springs ground water study drought have been unforeseen events delaying project.

6-Please identify the economic market or markets to which beneficial use of water under the permit is responding.

The use of this well will have potential to continue providing water to pasture which support our Beef herd which have been a more stable market in recent year than other commodities.

A) Has there been any change in this market since the permit was issued?

Yes. The increase demand on quality Beet in World wide markets.



B) Have these changes, if any, affected the economic feasibility of your project?

The economic feasibility look better now than 2 years ago, so getting an supplement water source is the top-most importance.

7-Are there other present competing demands for water in your community?

Yes, Endangered Species mostly existing in primary water source.

A) Has there been any change in these demands for water since the permit was issued?

Yes, Endangered Species in low Basin, "Klanath River"

B) Are you aware of alternative sources of water that may be able to satisfy the competing demands?

Yes, proposed and developed Boundary Line Dams to relieve over allocation of water would be the best alternative source but never has regained interest.

C) Are you aware of any adverse affects on your source of water that may have been caused by recent changes in use of water in your community?

No

8-Will the income or use from the water development project authorized by this permit provide reasonable returns against the investment in the project?

Yes, If we have permit to use water from well when primary right is shut down without asking do to the EBA. This is a huge asset that repay itself if approved & certified.

9-If the extension request is denied, is the current level of water use economically feasible?

No, The current level is not a reliable source as it was years ago. Our current use is based on biological data generated for the EBA by federal government. Our only source left is the wells that the state controls, which seem to understand the value of farm land to citizens.

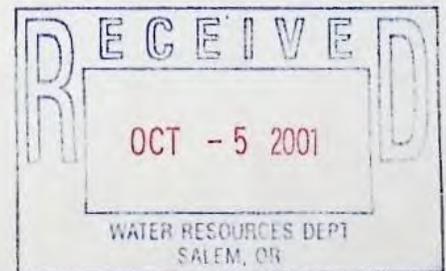
I am the permittee, or have authorization from the permittee, to apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for the Department to suspend processing of the request and/or reason to deny the extension.

[Handwritten Signature]
Signature

7/19/01
Date

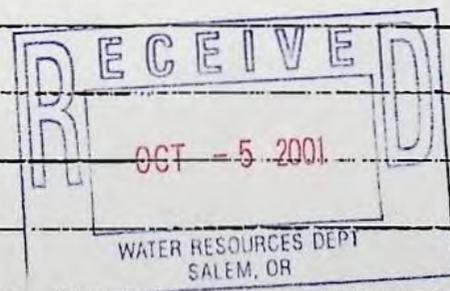
MAIL COMPLETED APPLICATION AND STATUTORY FEE OF \$ 100 TO:

WATER RIGHT PERMIT EXTENSIONS
WATER RESOURCES
158 12TH ST NE
SALEM, OREGON 97310



Permit 0-12458

This well is our alternative water management plan because it is supplemental to our primary source. Our primary source is BOR project water which is delivered through Longell Valley Irrigation district. With federal regulation to the uncertain supply of our water primary source is questionable. The ESA has prompt us to ~~use~~ and use an irrigation well as our alternative supplemental source. The irrigation well was constructed and all requirements on the permit condition have been met. The well is our only long term alternative water supply that we can apply economically. This plan is for the security of our future in the Longell Valley area to continue to farm when our long time primary source of water is threatened.





BALIN RANCHES
 13600 HOMEDALE RD. 541-882-9797
 KLAMATH FALLS, OR 97603

1225

DATE 10/18/01

24-22
1230

PAY
TO THE
ORDER OF

OWRD

\$ 200 ⁴⁰/₁₀₀

Two Hundred and ⁴⁰/₁₀₀

DOLLARS  Security Features
Included. Details on back.

U.S. BANK
 TOWN & COUNTRY BRANCH
 P.O. BOX 7369 KLAMATH FALLS, OR 97602
 UNITED STATES NATIONAL BANK OF OREGON

FOR File # 6-12972 & 6-13184

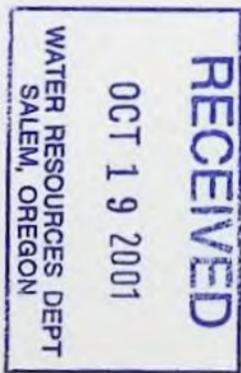
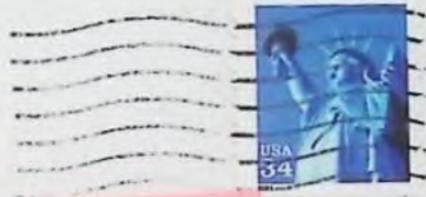
[Handwritten Signature]

RECEIVED
 OCT 19 2001
 WATER RESOURCES DEPT
 SALEM, OREGON

Records have been redacted or withheld pursuant to the exemption for financial transfer records specified in ORS 192.345(27).

BALIN'S TOWER DRUG & GIFTS, INC.

1791 Washburn Way
Klamath Falls, OR 97603
(541) 884-1347



OWRD
158~~th~~ 12th NE
Salem, OR. 97301-4172





Oregon

June 22, 2001. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
(503) 378-3739
FAX (503) 378-8130

BALIN RANCH
13600 HOMEDALE ROAD
KLAMATH FALLS OR 97603

RE: Application G-12972, Permit G12458

Dear Ground Water Permit Holder:

On July 31, 1996, the Oregon Water Resources Department (Department) issued approximately 40 ground water permits for irrigation in the greater Bonanza area. Included is a copy of your permit for your review.

The permit provides that it may expire, be extended, or be certificated five years from the date of issuance. Five years from the date of issuance is July 31, 2001. The permit also provides that before a water right certificate may be issued, the Director of the Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, must find that river stage or Bonanza Big Springs flows are not significantly diminished by use of water under the permit. The Director's decision must be based on quantifiable ground water and hydrologic science that stands up to peer review.

As you may know, the Department is conducting a study of the ground water resources of the Bonanza area. The Department will use the study results to help determine the final disposition of the permits, such as yours, that include the above condition. The study is not yet complete, and no certificates may be issued before the study is complete.

If you are interested in maintaining your permit, you will need to apply for an extension. The date for completing development under the permit passed on October 1, 2000. Filing for an extension will give you additional time to develop your permit, including additional time to comply with any permit conditions that you have not satisfied. I recommend that you request an extension until December 31, 2002. This will allow time for the study to be completed, allow you an opportunity to complete development under the permit and allow you to use water under the permit at least through the 2002 irrigation season. I have included an extension form with instructions for your use.

Once the ground water study is complete and peer-reviewed, the Director will propose findings that will indicate whether you will be able to receive a certificate and continue to use water under your permit beyond December 31, 2002, assuming that you request and receive an extension through December 31, 2002. The findings most likely will put your permit into one of the following two categories:

4. If the finding is favorable to you, and if you have completed development under the terms and conditions of your permit, you will be required to hire a Certified Water Rights Examiner to help you prepare and submit a claim of beneficial use and final proof map.

June 22, 2001 - page two
BALIN RANCH

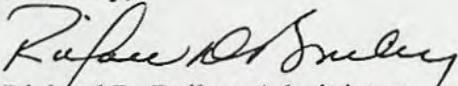
This information will need to arrive at the Water Resources Department in Salem no later than December 31, 2003, assuming that you request and receive an extension through December 31, 2002. Oregon law requires that the claim of beneficial use and map be received by the Department no later than one year after the completion deadline date, as that date may be extended.

5. If the finding is not favorable to you, the Department will take action to cancel your permit as provided under ORS 537.260. Notice of the Department's intent to cancel would be sent to you by certified mail.

I strongly urge you to read your permit carefully and make sure that you are complying with all permit conditions, and to apply for an extension if you are interested in maintaining your permit.

If you have questions, please contact Water Rights Section Manager Dwight French who will be available after July 2. His telephone number is 1-503-378-8455, extension 268. If you have questions regarding the ground water study in the Bonanza area, please contact Jerry Grondin at the same telephone number, extension 214. Thank you for your interest and assistance.

Sincerely,


Richard D. Bailey, Administrator
Water Rights/Adjudication Division

cc: Del Sparks, Watermaster, Oregon Water Resources Department
Bob Main, South Central Region Manager, Oregon Water Resources Department
Dwight French and Jerry Grondin, Oregon Water Resources Department
Rick Kepler and Roger Smith, Oregon Department of Fish and Wildlife
Jerry Townsend, Jim Bryant, Karl Wirkus and Eric Glover, Bureau of Reclamation
Karen Russell, WaterWatch of Oregon

enclosures: extension form and instructions
copy of your permit

STATE OF OREGON
COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BALIN RANCH
13600 HOMEDALE ROAD
KLAMATH FALLS, OREGON

97603

541-882-9797

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: G-12972

SOURCE OF WATER: A WELL IN THE LOST RIVER BASIN

PURPOSE OR USE: PRIMARY AND SUPPLEMENTAL IRRIGATION OF 307.1 ACRES

RATE OF USE: 3.5 CUBIC FEET PER SECOND

PERIOD OF ALLOWED USE: APRIL 15 THROUGH OCTOBER 15

DATE OF PRIORITY: JUNE 5, 1992 FOR 250 ACRES, AND DECEMBER 23, 1992 FOR 57.1 ACRES

POINT OF DIVERSION LOCATION: SE 1/4 NW 1/4 SECTION 18, T41S, R14E, W.M.; 150 FEET NORTH AND 640 FEET WEST OF THE CENTER 1/4 CORNER OF SECTION 18.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

<u>LOCATION</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NW 1/4 NW 1/4	2.1 ACRES	34.6 ACRES
SW 1/4 NW 1/4	2.9 ACRES	34.9 ACRES
NW 1/4 SW 1/4	1.0 ACRE	
SW 1/4 SW 1/4		38.0 ACRES
SE 1/4 SW 1/4	2.0 ACRES	
	Section 7	
NE 1/4 NW 1/4	19.0 ACRES	20.0 ACRES
NW 1/4 NW 1/4		38.8 ACRES
SW 1/4 NW 1/4		39.7 ACRES
SE 1/4 NW 1/4	16.7 ACRES	23.3 ACRES
SW 1/4 NE 1/4	13.3 ACRES	
NW 1/4 SE 1/4	13.3 ACRES	
SW 1/4 SE 1/4	7.5 ACRES	

Section 18

TOWNSHIP 41 SOUTH, RANGE 14 EAST, W.M.

SEE NEXT PAGE

The use of water under this permit may expire or be extended five years from issuance of the permit. A water right certificate shall be issued at the end of the five year period if the Director finds:

- A. River stage or Bonanza Big Spring flows are not significantly diminished by use of water under this permit as determined by the Oregon Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review;
- B. Within two years of permit issuance for primary use, the permittee/appropriator has submitted a plan to the Department indicating potential economical sources for an alternative long-term water supply;
- C. Periodic water level reports have been submitted; and
- D. Excessively declining ground water levels have not occurred due to well use and determined by the Oregon Water Resource Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review.

The amount of water used for irrigation under this right, together with the amount used under any other right existing for the same land, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

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 by April 15, 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.

SEE NEXT PAGE

- 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.

The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

A static water level measurement shall be made and submitted before any use of water may commence from the well.

The permittee shall obtain a static water-level measurement for each well during March and October of each year and report the measurements to the Department. The measurement shall be made by a certified water rights examiner, registered geologist, licensed land surveyor or registered professional engineer, licensed water well constructors, licensed water well drillers or the permittee/appropriators. Water levels shall be reported as depth-to-water below ground level in feet and inches or to one-hundredth of a foot and shall be accompanied by supporting calculations. The water user shall report the static water level(s) in the well(s) to the Groundwater/Hydrology Section of the Water Resources Department by April 15 and November 15, respectively, of each year.

If substantial interference with a senior surface or ground water right occurs due to withdrawal of water from the well(s) listed on this permit, then use of water from such well(s) shall be discontinued or reduced or the schedule of withdrawal shall be regulated until the Department approves or implements an alternative administrative action to mitigate such interference.

Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

The permit is for the beneficial use of water without waste.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

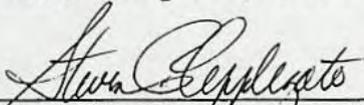
The use of water shall be limited when it interferes with any prior surface or ground water rights.

Actual construction work shall begin on or before January 18, 1997 and shall be completed on or before October 1, 1997. Complete application of the water to the use shall be made on or before October 1, 2000.

The Director finds that the proposed use(s) of water described by this permit will not impair or be detrimental to the public interest.

This permit is issued to correctly describe the dates for measuring and reporting static water level, beginning and completion of construction, complete application of the water to the use allowed herein, and water use conditions relating to practical technologies or conservation practices. Permit G-12236 is superseded by this instrument and is of no further force or effect.

Issued July 31, 1996



for Water Resources Department
Martha O. Pagel
Director

August 7, 1997

WATER
RESOURCES
DEPARTMENT

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS OR 97603

RE: File 612972 Permit 612458

Dear Permittee:

The groundwater permit issued to you on July 31, 1996 contains a condition that complete application of water should be made by October 1, 2000. Under normal circumstances you would be required to submit a Claim of Beneficial Use and Final Proof Report within one year of complete application of water.

As you are aware, five years after permit issuance the permit may expire or be extended. A water right certificate will be issued if the Director finds that the conditions and criteria in your permit have been met.

This letter is to inform you that it will *not* be necessary to submit a Claim of Beneficial Use and Final Proof Report until the Department determines that the permit can be extended or that a certificate of water right can be issued. The Department will notify you if and when it is necessary to submit the Claim of Beneficial Use and Final Proof Report.

If you have questions please contact me at the address below or phone (503)378-3739 ext. 272.

Sincerely,



Dallas Miller
Natural Resource Specialist 2

cc: Del Sparks, Watermaster



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-12972

Final Order

Application History

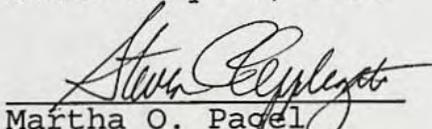
On JUNE 5, 1992, BALIN RANCH submitted an application to the Department for a water use permit. The Department issued a permit on January 18, 1996.

The Department's continuing evaluation reveals that the permit requires modification to correctly describe the dates for measuring and reporting static water level, beginning and completion of construction, complete application of the water to the use allowed, and water use conditions relating to practical technologies or conservation practices.

Order

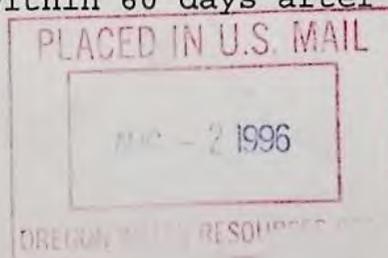
Permit G-12236 is superseded by Permit G-12458 and is of no further force or effect.

DATED July 31, 1996

for 
Martha O. Pagel
Director

Appeal Rights

Under the provisions of ORS 183.484, the applicant may appeal this order by filing a petition for review in the Circuit Court for Marion County or the circuit court for the county in which the applicant resides or has a principal business office. The petition for review must be filed within 60 days after the date this order is served.



STATE OF OREGON

COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

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KLAMATH FALLS, OREGON

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Section 18

TOWNSHIP 41 SOUTH, RANGE 14 EAST, W.M.

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- B. Within two years of permit issuance for primary use, the permittee/appropriator has submitted a plan to the Department indicating potential economical sources for an alternative long-term water supply;
- C. Periodic water level reports have been submitted; and
- D. Excessively declining ground water levels have not occurred due to well use and determined by the Oregon Water Resource Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review.

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Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

The permit is for the beneficial use of water without waste.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

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Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Actual construction work shall begin on or before January 18, 1997 and shall be completed on or before October 1, 1997. Complete application of the water to the use shall be made on or before October 1, 2000.

The Director finds that the proposed use(s) of water described by this permit will not impair or be detrimental to the public interest.

This permit is issued to correctly describe the dates for measuring and reporting static water level, beginning and completion of construction, complete application of the water to the use allowed herein, and water use conditions relating to practical technologies or conservation practices. Permit G-12236 is superseded by this instrument and is of no further force or effect.

Issued July 31, 1996



for Water Resources Department
Martha O. Pagel
Director

MAP TO ACCOMPANY GROUND WATER APPLICATION

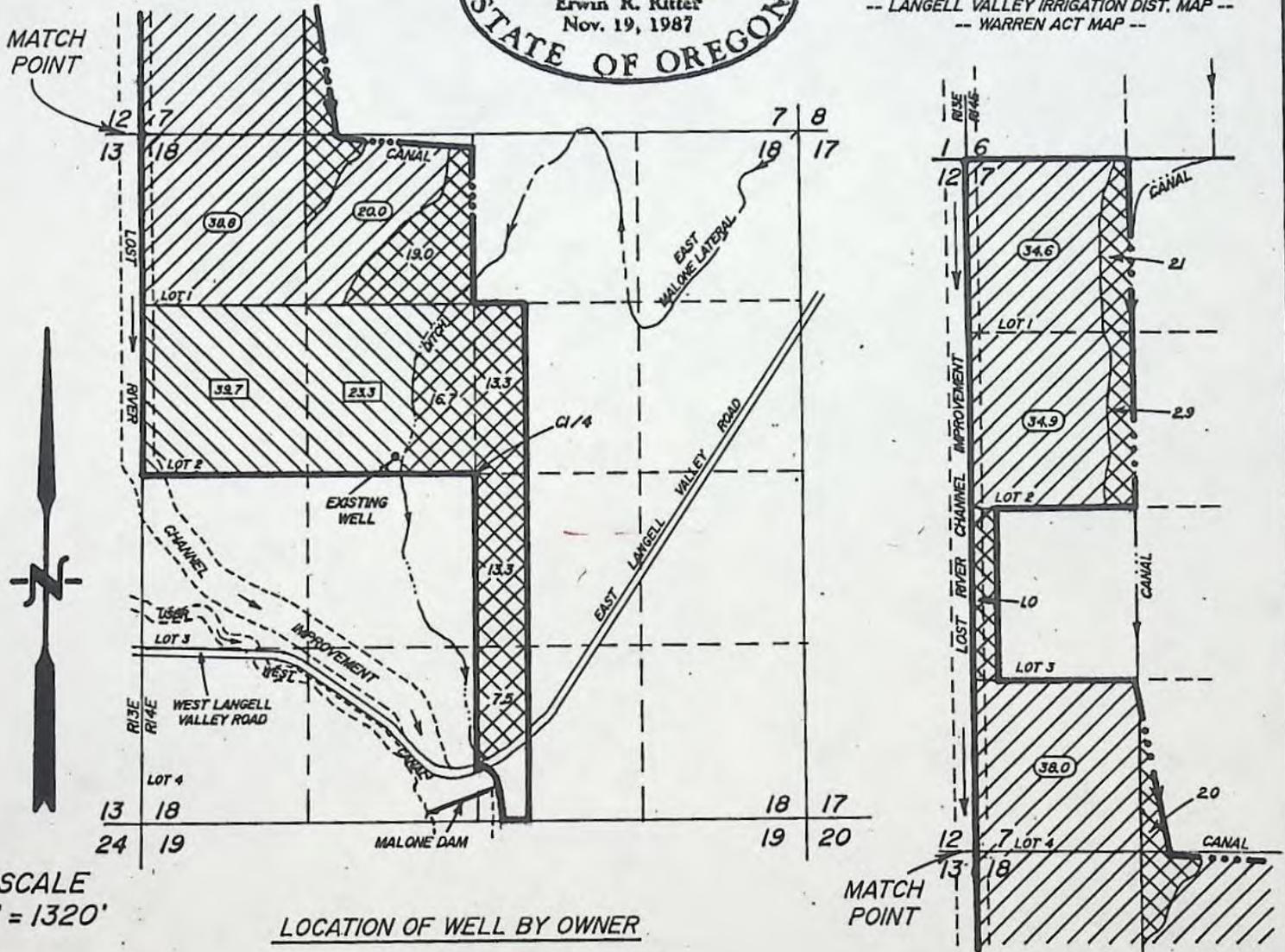
SITUATED IN THE W1/2 NW1/4 AND SW1/4 OF SECTION 7,
 THE W1/2 SE1/4, SW1/4 NE1/4 AND THE NW1/4 OF
 SECTION 18, T41S, R14EW, KLAMATH COUNTY, OREGON
 DECEMBER 1992

RECEIVED
 DEC 23 1992
 WATER RESOURCES DEPT.
 SALEM, OREGON

MAP PREPARED FOR
 -- BALIN RANCH --



MAP PREPARED FROM
 -- ASSESSORS MAPS --
 -- LANGELL VALLEY IRRIGATION DIST. MAP --
 -- WARREN ACT MAP --



LOCATION OF WELL BY OWNER
 150 FEET NORTH AND 640 FEET WEST OF
 THE CENTER 1/4 CORNER OF SECTION 18

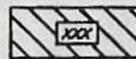
TOTAL AREA THIS APPLICATION

-- 307.1 Ac. --

application #12972
 permit G12236



LANDS SUPPLEMENTAL TO WARREN ACT 166.3 Ac.



LANDS SUPPLEMENTAL TO LANGELL
 VALLEY IRRIGATION DISTRICT 63.0 Ac.



PRIMARY LANDS THIS APPLICATION 77.8 Ac.

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE
 WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE
 TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

TRU-LINE SURVEYING
 2333 SUMMERS LANE
 KLAMATH FALLS, OR. 97603

Water Watch

RIVERS NEED WATER

RECEIVED

AUG - 9 1996

WATER RESOURCES DEP
SALEM, OREGON

August 6, 1996

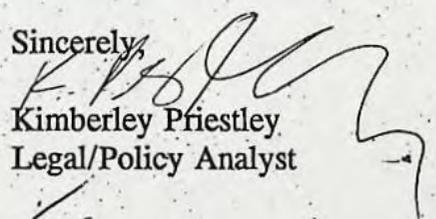
Steve Applegate
Water Rights Section
Water Resources Department
158 12th Street NE
Salem, OR 97310

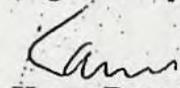
RE: Lost River Groundwater Permits, including (application numbers) G-12493, G-12494, G-13198, G-12777, G-12860, G-12808, G-13041, G-13013, G-12772, G-12735, G-12617, G-12768, G-12748, G-13101, G-12618, G-12567, G-12518, G-12644, G-12507, G-12979, G-13732, G-12766, G-13012, G-12935, G-12814, G-12897, G-12885, G-12876, G-12869, G-12874, G-12877, G-12972, G-12955, G-13019, G-13011, G-13106, G-13184, G-13214, G-13387, G-12811

Dear Steve:

As parties to the alternative dispute settlement proceedings and as protestants, WaterWatch is clearly an interested party to the proceedings relating to the "temporary permits" in the Lost River Basin. We intend to participate in the 5-year review of these temporary permits and to submit comments. ~~At this time we are requesting the timelines for the review process.~~ At the very least the Department should give parties to the proceedings 60 days notice prior to the intended date for the final decision. Moreover, the timelines should anticipate additional discussions on the information submitted to the Department. We also request copies of all information submitted to the Department regarding these applications.

Sincerely,


Kimberley Priestley
Legal/Policy Analyst


Karen Russell
Assistant Director

See attached response

August 15, 1996

Kimberly Priestly and Karen Russell
WaterWatch
213 SW Ash, Suite 208
Portland OR 97204

RE: Lost River Groundwater Permits

Dear Kimberly and Karen,

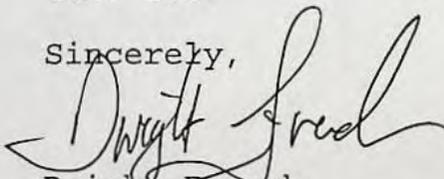
This is in response to your letter of August 6, 1996.

The Department's Groundwater Section is conducting a groundwater investigation in the Bonanza area. The primary focus of the investigation is to determine the effects of groundwater use on Lost River and senior surface water rights. This will include the affect upon Big Spring flows at Bonanza. Please contact Jerry Grondin directly at extension 214 if you would like further information regarding the timelines of the investigation.

You may submit comments to the files at any time relating to the review process. However, the decision of whether to extend the permits, issue certificates or allow the permits to expire will be determined by the Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife.

If you have any questions, please feel free to give me a call. I can be reached toll free from within Oregon at 1 (800) 624-3199 ext. 268.

Sincerely,



Dwight French
Water Rights Section Manager

cc: files on August 6, 1996 letter
Jerry Grondin (with letter of August 6, 1996)
Bill Kennedy (with letter of August 6, 1996)
Glen Barrett (with letter of August 6, 1996)



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

August 2, 1996

Dear Permittee:

The enclosed final order and permit replaces those that were mailed to you in early February of this year.

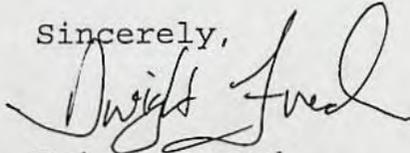
The Department feels this new permit more accurately reflects the agreements made between a majority of groundwater applicants in your area, Oregon Department of Fish and Wildlife, and the Bureau of Reclamation.

Please read the entire permit carefully.

I want to thank you for your patience during this long permitting process. If you should need to file another application in the future, you should know that the process has been streamlined so that final decisions are made on applications within eight months on over 90% of the applications.

If you have questions, please call me at 1 (800) 624-3199 extension 268.

Sincerely,



Dwight French
Water Right Section Manager

Enclosure



July 31, 1996

Karen Russell
WaterWatch of Oregon
213 SW Ash St., Suite 208
Portland, OR 97204

WATER
RESOURCES
DEPARTMENT

RE: Lost River Basin Groundwater Permits

Dear Karen:

This is to confirm our July 22, 1996, conversation on the above subject, and to respond to Kimberley's letter of April 26, 1996.

As we discussed, the Department made some errors when the permits were issued. Pursuant to a request from the applicants, the permits are being reissued to be consistent with the agreement between the applicants, Oregon Department of Fish and Wildlife and the Bureau of Reclamation.

Your letter lists five concerns:

Period of use- The period of use described in the new permits will be April 15 through October 15, consistent with the agreement.

Supplemental versus primary irrigation- This condition was not a part of the agreement and is being removed from the permits.

Habitat impacts- This issue is not specifically referred to in the agreement, and thus is not in reissued permits. The permits do contain a condition limiting the use to five years if significant impacts to the flows of Lost River or the Bonanza springs are identified.

Notice & Opportunity for Comment- The department must "consult" with BOR and ODFW at the end of the 5-year use period, and comments from others would also certainly be considered as part of that process. It will be incumbent on you to submit your comments as that time approaches. Public notice of the 5-year review is not contemplated at this time.



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Hydrologic Connection- We believe that the final order does reflect the fact that some degree of connection exists between the wells and the Lost River. The entire agreement reflects the understanding, however, that the degree of connection and thus the potential impact to surface water is unknown. This will be further determined during the ensuing 5-year period through monitoring and data collection.

You asked whether the permit language might preclude a permittee from being granted an extension of time at the end of the 5-year period. We think not. At the end of 5 years, consultation will occur to determine whether the permits will expire, or whether the use will be allowed to continue. If the decision is the latter, and a permit holder has not completed all of the use contemplated in the permit by then, I believe they could request a time extension rather than a certificate.

As we also discussed, we will send copies of the superseding permits to you once they are completed. Please contact me or Dwight French if you have further questions on this issue.

Sincerely,



Steve Applegate
Acting Administrator, Water Rights Division

cc: Martha Pagel
Dwight French
Glen Barrett
Bill Kennedy
Bureau of Reclamation, Klamath Project
Roger Smith, ODFW

SPA:dpc.368

G	12768	- Filed 2/3/1992	- Elso and Arie DeJong	a
G	12493	4/22/91	CIRCLE FIVE RANCH INC.	a
G	12494	4/22/91	CIRCLE FIVE RANCH INC.	a
G	12507	4/26/91	BABSON (see G-12869)	a
G	12617	7/22/91	UECKER	a
G	12618	7/22/91	HASKINS AND CO. INC.	a
G	12644	8/23/91	LOST RIVER RANCH	b
G	12732	12/12/91	WIERSMA	a
G	12735	12/19/91	TEAGUE	a
G	12746	12/31/91	HORSLEY	a
G	12766	1/24/92	HILL	a
G	12769	4/7/95	RITTER	c
G	12772	2/05/92	GIBSON	a
G	12814	3/09/92	MANNING	a
G	12860	4/03/92	WEYERHAEUSER CO.	b
G	12869	4/10/92	BABSON	a
G	12874	4/14/92	MASTEN	a
G	12876	4/15/92	MASTEN	a
G	12877	4/15/92	MASTEN	a
G	12885	4/20/92	WILLIAMS*	a
G	12897	4/30/92	GORDEN	a
G	12955	6/05/92	BENNETT	a
G	12972	6/05/92	BALIN RANCH	a
G	12994	6/19/92	CHEYNE**	a
G	13011	6/29/92	HAMMERICH	a
G	13019	7/06/92	WELLS	b
G	13096	8/27/92	STASTNY JR	b
G	13101	8/31/92	BARRETT LIVESTOCK	b
G	13106	9/08/92	GROHS RANCH	a
G	13184	11/13/92	BALIN RANCHES	a
G	13198	11/25/92	GALLUP	a
G	13387	5/03/93	DEJONG	a

*Bonanza
Appls.*

*Assigned to Biaggi, no notice of the protest was given to the applicant.

** Application withdrawn by letter

Lost River Ranch LLC

25400 North Poe Valley Road
Klamath Falls, Oregon 97603
(503) 884-7963

#363

RECEIVED

MAR 18 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Martha O. Pagel
Water Resource Department
Commerce Building
158 12th Street N.E.
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

March 15, 1996

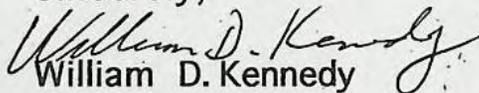
Dear Martha

I am responding to some concerns of several groundwater applicants that have taken part in the Bonanza ADR process and have received their final orders on their applications.

After your conversation this morning with Glenn Barrett we have reviewed our final orders and find similar concerns.

Please accept these comments on behalf of myself and in the interest of the other groundwater applicants in the Bonanza area.

Sincerely,


William D. Kennedy

cc

Steve Applegate
Dwight French

Lost River Ranch LLC

25400 North Poe Valley Road
Klamath Falls, Oregon 97603
(503) 884-7963

RECEIVED

MAR 18 1996

WATER RESOURCES DEPT.
SALEM, OREGON

Martha O. Pagel
Water Resource Department
Commerce Building
158 12th Street N.E.
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

March 15, 1996

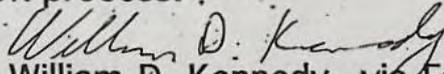
Dear Martha

In reviewing the final orders for G-12644 I find several variances from the ADR conditions agreed upon.

1. Period of allowed use in ADR conditions is April 15 through October 15. This was to mitigate concerns from BOR and ODFW relative to potential benefit to listed fish.
2. Duty of water is not consistent throughout permits. Is it 2.5 af or 3.0 af?
3. Dates for static water level measurement is not consistent. ADR dates are March and October, with reports due April 15 and November 15.
4. ADR condition # 13. does not include language regarding new regulations and best practical technologies.
5. I am not clear on the language of Findings of Fact and Conclusions of Law, number three. Please explain issue of total quantity diverted.....

It is imperative that these issues be resolved so that the permit conditions are consistent with the conditions agreed to, and signed by the participants in the ADR process.

Sincerely,


William D. Kennedy via Fax

August 5, 1994

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS OR 97603

Reference: File number(s) 12972

Dear Bonanza Area Groundwater Applicant:

Staff of the Water Resources Department will hold an applicant information meeting concerning certain pending groundwater applications in the Bonanza Springs, Yonna, Poe and Langell Valleys on Monday, August 15, 1994 at 6:00 pm. The meeting will be held at Bonanza High School.

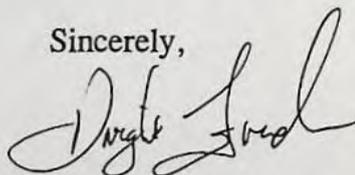
The purpose of the meeting is to provide information concerning the water right application review procedure to you and other applicants.

It is important that each applicant have a clear understanding of the application review process, how the issues are developed and how objections are handled. Therefore, we propose to follow a strict agenda at the August 15 meeting. It is not our intent to debate the issues related to approval or denial of individual applications.

A copy of the agenda is enclosed.

If you have any questions about the meeting, please feel free to give me a call.

Sincerely,



Dwight French
Manager
Water Rights Section



**Water Right Conditions
Tracking Slip**

Groundwater/Hydrology Section

FILE ## G-12972

ROUTED TO: Water Rights

TOWNSHIP/

RANGE-SECTION: T41S/R14E-18

CONDITIONS ATTACHED? yes no

REMARKS OR FURTHER INSTRUCTIONS:

Reviewer: Michael Zwart

MEMO

G-12972

TO: FILES

FROM: KYLE GORMAN

SUBJ: ADDITIONAL COMMENTS ON BONANZA GW APPLICATIONS

In and around the town of Bonanza there exists several hundred wells. The driller's reports that do exist for the majority of those wells describe a mixture of volcanic and sedimentary rock units. The shallower unit, being the sedimentary unit, is a composition of volcanically derived material deposited by water, whether alluvial or fluvial. The lithologic characteristics of this rock unit indicates deposition occurring near and in shallow inland seas and their margins during the Pliocene epoch. The lower unit is usually described as rock, lava or cinders. It is assumed that this unit is a single basaltic lava flow or several basaltic lava flows with scoriaceous interflow zones.

The state in which the ground water in this area exists is questionable. It seems that depending on which driller, how deep the well is and what material he encountered would determine the degree of confining of the aquifer. The minority of the well logs, indicate an unconfined system. More recent drillers, one in particular, indicate that upon encountering subsurface water, the SWL in the well remains the same throughout depth. More often than not, drillers report confined conditions. The well reports describe the overlying clay, chalk, diatomite sedimentary unit to be non-water bearing until penetration into the lower lava. On shallow wells this sedimentary unit contains lenses or layer (due to unknown areally extent) of coarser grained material yielding enough water for domestic purposes. It seems that when a well is drilled for domestic purposes the sedimentary unit does contain water but when drilling for an irrigation well it does not.

Based on SWL measurements taken over the last 10 months and continuous recorder monitoring, both data suggests unconfined conditions in the area surrounding the town of Bonanza. Different water bearing zones are probably hydraulically connected indirectly by the intercalated nature of the geology. Leonard and Harris (1974) suggest that near fault zones the rubble produced from faulting provides fracture permeability some distance from fault zones. Unconfined conditions are found and can occur in this type of geologic setting.

In some areas of Langell valley, particularly the south half of T39S and south of there, faulting has created compartmentization of ground water. With this compartmentization of groundwater, upon encountering a well with a swl level significantly different from 4110 ft above mean sea level, it is assumed no direct hydraulic connection with the Lost River exists. One cannot say, however, that this water bearing zone is not hydraulically connected to a spring that may contribute to the flow of the Lost River. *at least 100'*

24621-9

In Yonna Valley Leonard and Harris (1974) conclude that the mineralogic content of the groundwater there is pure enough that the slight groundwater divide that exists between Yonna and Poe valleys is not great enough for stagnation and thereby no significant accumulation of minerals exists. This means that there is enough flow from this area to not qualify it as a closed basin. Groundwater flow from this area exists.

References

Leonard, A. R., and Harris, A. P., 1974, Ground Water in Selected Areas in the Klamath Basin: Oregon State Engineer Ground Water Report No. 21., 104 p.

TO: Water Rights Section
FROM: Groundwater/Hydrology Section
SUBJECT: Application G- 12972

6-16, 1993

**Water Right Conditions
Tracking Slip**

Groundwater/Hydrology Section

FILE ## G-12972
ROUTED TO: Tom Shook
TOWNSHIP/
RANGE-SECTION: T41S R14E Sec 18

APPLICATION ACCEPTED? yes no
CONDITIONS ATTACHED? yes no

REMARKS OR FURTHER INSTRUCTIONS:

Reviewer: K. Gorman

1. PER THE _____ Basin rules, one or more feet/mile of a surface water source (_____ connected to the surface water.
2. BASED UPON OAR 690-09 currently in effect,
a. will, or _____ have the potential for substantial
b. _____ will not _____ source, namely lost
c. _____ will, if properly conditioned, adequately protect
i. _____ The permit should contain condition # _____;
ii. _____ The permit should contain special condition(s) _____;
iii. _____ The permit should be conditioned as indicated in item 4 below.
d. _____ will, with well reconstruction, adequately protect
3. BASED UPON available data, I have determined
a. _____ will, or _____ likely be available in the amounts requested without injury to _____;
b. will not _____ within the capacity of the resource; or
c. _____ can, if properly conditioned, avoid injury to existing rights or to the groundwater resource;
i. _____ The permit should contain condition #(s) _____;
ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
iii. _____ The permit should be conditioned as indicated in item 4 below.
4. a. _____ THE PERMIT should allow groundwater production from no deeper than _____ ft. below land surface;
b. _____ The permit should allow groundwater production from no shallower than _____ ft. below land surface;
c. _____ The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
d. _____ Well reconstruction is necessary to accomplish one or more of the above conditions.
e. _____ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS: _____

6-12972
27621-9

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. THE WELL which is the point of appropriation for this application does not meet current well construction standards based upon:
- a. ___ review of the well log;
 - b. ___ field inspection by _____;
 - c. ___ report of CWRE _____;
 - d. ___ other: (specify) _____
6. THE WELL construction deficiency:
- a. ___ constitutes a health threat under Division 200 rules;
 - b. ___ commingles water from more than one groundwater reservoir;
 - c. ___ permits the loss of artesian head;
 - d. ___ permits the de-watering of one or more groundwater reservoirs;
 - e. ___ other: (specify) _____
7. THE WELL construction deficiency is described as follows: _____
8. THE WELL
- a. ___ was, or constructed according to the standards in effect at the time of
 - b. ___ was not original construction or most recent modification.
 - c. ___ I don't know if it met standards at the time of construction.

RECOMMENDATION:

- A. ___ I recommend including the following condition in the permit:
"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."
- B. ___ I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.
- C. ___ REFER this review to Enforcement Section for concurrence.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit.

_____, 1993.

(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

_____, 1993.

(Signature)

(WRFORM8\91)

MEMO

TO: FILES

FROM: KYLE GORMAN

SUBJ: ADDITIONAL COMMENTS ON BONANZA GW APPLICATIONS

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References

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WATER RESOURCES DEPARTMENT MEMORANDUM

TO: Groundwater/Hydrology Files Date 6-15-93

FROM: K. Gorman

SUBJECT: Groundwater Application G- 12972 Phone: 882-9797

Name: Balin Ranch

Applicant(s) seek 1572 gpm (3.5 cfs) from 1 well(s) in the

Proposed use: irrigation Klamath basin
Lost River sub basin
sub basin.

Pertinent 7 1/2 - minute quads Lansell Valley

Well 1 WRD# 10642 T 41S R 14E S 18 00SENW County Klamath

Legal Description 2850'N 1980' E of SW Cor Sec 18 T41S R14E

Well is 1450 ft from Lost River (river/stream)

Well is 5300 ft from Kilgore Spring (river/stream)

Well elevation 4136 ft. River/stream elevation 4125 ft.

Well elevation - river/stream elevation 11

Well depth 724 SWL 15 on 10/23/92

Sealed to 19 Depth first water found ?

Cased to 19 Perforations/screens None

Lined to - Perforations/screens -

Well tests and types Pump Test 1000 gpm drill stem o 150?

Confined or unconfined? Confined? Hydraulically connected? Yes

Potential to cause substantial interference? Yes

Well _____ WRD# _____ T _____ R _____ S _____ 00 County _____

Legal Description _____

Well is _____ ft from _____ (river/stream)

Well is _____ ft from _____ (river/stream)

Well elevation _____ ft. River/stream elevation _____ ft.

Well elevation - river/stream elevation _____

Well depth _____ SWL _____ on _____

Sealed to _____ Depth first water found _____

Cased to _____ Perforations/screens _____

Lined to _____ Perforations/screens _____

Well tests and types _____

Confined or unconfined? _____ Hydraulically connected? _____

Potential to cause substantial interference? _____

Conditioned water rights in area: Not in this Township but yes one to the West & East,

Other nearby water rights of record: G-6557 G-6643

Density of nearby wells of record: Spence Rural agriculture

Comments: See application G-12901 Review for SWL information

References used: See attached memo

MEMO

TO: GROUNDWATER/HYDROLOGY FILES

FROM: KYLE GORMAN

SUBJ: APPLICATION #G-12972

DATE 6/16/93

The subject well develops water in a thick sequence of Basalt probably late Miocene and early Pliocene lava flows of the Devil's Garden Volcanics (McKee and Others, 1983) interfingering with the Tcs unit of Sherrod and Pickthorn (1992). Information gathered from the well report suggests that the basalt and a layer of ash act as a confining layers. Generally in the area the Tcs sedimentary unit acts solely as the confining layer.

Upon review of Application G-12901 it became apparent that the potentiometric surface of the aquifer is very flat along the valley floor and continues for several miles to the East. This flat potentiometric surface is assumed to slope upward as the land surface also slopes upward on to the mountain side to the West. This is illustrated by the potentiometric surface contours drawn by Leonard and Harris (1974) on plate 5. The flow direction of groundwater in this valley follows the general course of the Lost River.

The Lost River has been channelized through the middle of upper Langell Valley and in doing so the marshy areas that once occurred there have been drained. I feel that the marshy area was created by the natural upward leakage through the sand sediments that are illustrated by Leonard and Harris in a stratigraphic column of a well log description located in sec 13ddd T40S R13E. This source of upward leakage occurs from the confined aquifer that exists below the valley floor's Quaternary alluvial sediments. The potentiometric surface was at an elevation of 4141 msl in April of 1992. This would be about 15 feet above land surface in upper end of Langell Valley.

In reviewing the hydrographs of SOW #'s 291 and 295, T39S R12E SEC 35add and T41S R14E SEC 8cca, respectively, they show a dramatic decrease in static water levels during the summer of 1992. This is due largely in part to the dramatic increase in pumping that occurred in this valley at this same time. The pumping and swl data has been gathered over past year and will be available in an open-file report to be finished at the end of June 1993. Since the flow of the Lost River is augmented by the upward leakage of the confined aquifer and this aquifer experienced a dramatic decrease in artesian pressure, it is likely that the cumulative effect with the addition of this appropriation would have the potential for substantial interference with the Lost River. If this were the only appropriation in the area it would probably be safe to permit G-12972 but what we have seen over the past year indicates any additional appropriation in Langell Valley probably will have a significant impact on any spring or

seep in the valley

groundwater seep in the Valley.

References

Leonard, A. R., and Harris, a. P., 1974, Ground Water in Selected Areas in the Klamath Basin: Oregon State Engineer Ground Water Report No. 21., 104 p.

McKee, E. H., Duffield, W. A., and Stern, R. J., 1983, Late Miocene and early Pliocene Basaltic Rocks and their Implications for Crustal Structure, Northeastern California and South Central Oregon: Geological Society of America Bulletin, v. 94, no. 2, p. 292.

Sherrod, D. R., and Pickthorn, L. b. G., 1992, Geologic Map of the West Half of the Klamath Falls 1x2 degree Quad., South-Central Oregon: U. S. Geological Survey Miscellaneous Geologic Investigations series Map I-2182, Scale 1:250,000.

Water Resources Department

MEMO

February 22, 1996

TO Application G-12972

FROM GW: Michael Zwart
(Reviewer's Name)

SUBJECT Scenic Waterway Interference Evaluation

Yes
 No The source of appropriation is within or above a Scenic Waterway.

Yes
 No Use the Scenic Waterway condition (Condition 7J).

PREPONDERANCE OF EVIDENCE FINDING: (Check box only if statement is true)

At this time the Department is unable to find that there is a preponderance of evidence that the proposed use of ground water 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.

FLOW REDUCTION: (To be filled out only if Preponderance of Evidence box is not checked)

Exercise of this permit is calculated to reduce monthly flows in _____ Scenic Waterway by the following amounts expressed as a proportion of the consumptive use by which surface water flow is reduced.

Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec

12972

**Water Right Conditions
Tracking Slip**

Groundwater/Hydrology Section

FILE ## G-12972

ROUTED TO: Water Rights

TOWNSHIP/

RANGE-SECTION: T41S/R14E-12

CONDITIONS ATTACHED? yes no

REMARKS OR FURTHER INSTRUCTIONS:

Reviewer: Michael Zwart

Water Right Conditions
Tracking Slip

Groundwater/Hydrology Section

FILE ## G-12972

ROUTED TO: Tom Shook

TOWNSHIP/

RANGE-SECTION: THIS R14E Sec 18

APPLICATION ACCEPTED? yes no

CONDITIONS ATTACHED? yes no

REMARKS OR FURTHER INSTRUCTIONS:

Reviewer: K. Gorman

TO: Water Rights Section

6-16, 1993

FROM: Groundwater/Hydrology Section

K. Gorman
Reviewer's Name

SUBJECT: Application G- 12972

1. PER THE _____ Basin rules, one or more of the proposed POA's is/is not within _____ feet/mile of a surface water source (_____) and taps a groundwater source hydraulically connected to the surface water.

2. BASED UPON OAR 690-09 currently in effect, I have determined that the proposed groundwater use
 - a. will, or _____ have the potential for substantial interference with the nearest surface water
 - b. will not _____ source, namely Lost River; or
 - c. will, if properly conditioned, adequately protect the surface water from interference:
 - i. The permit should contain condition #(s) _____;
 - ii. The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. The permit should be conditioned as indicated in item 4 below; or
 - d. will, with well reconstruction, adequately protect the surface water from substantial interference.

3. BASED UPON available data, I have determined that groundwater for the proposed use
 - a. will, or _____ likely be available in the amounts requested without injury to prior rights and/or
 - b. will not _____ within the capacity of the resource; or
 - c. can, if properly conditioned, avoid injury to existing rights or to the groundwater resource;
 - i. The permit should contain condition #(s) _____;
 - ii. The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. The permit should be conditioned as indicated in item 4 below.

4.
 - a. THE PERMIT should allow groundwater production from no deeper than _____ ft. below land surface;
 - b. The permit should allow groundwater production from no shallower than _____ ft. below land surface;
 - c. The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
 - d. Well reconstruction is necessary to accomplish one or more of the above conditions.
 - e. One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS:

WELL CONSTRUCTION (If more than one well doesn't meet standards, attach an additional sheet.)

5. THE WELL which is the point of appropriation for this application does not meet current well construction standards based upon:
- a. ___ review of the well log;
 - b. ___ field inspection by _____;
 - c. ___ report of CWRE _____;
 - d. ___ other: (specify) _____
6. THE WELL construction deficiency:
- a. ___ constitutes a health threat under Division 200 rules;
 - b. ___ commingles water from more than one groundwater reservoir;
 - c. ___ permits the loss of artesian head;
 - d. ___ permits the de-watering of one or more groundwater reservoirs;
 - e. ___ other: (specify) _____
7. THE WELL construction deficiency is described as follows: _____
8. THE WELL a. ___ was, or constructed according to the standards in effect at the time of
b. ___ was not original construction or most recent modification.
c. ___ I don't know if it met standards at the time of construction.

RECOMMENDATION:

- A. ___ I recommend including the following condition in the permit:
"No water may be appropriated under terms of this permit until the well(s) has been repaired to conform to current well construction standards and proof of such repair is filed with the Enforcement Section of the Water Resources Department."
- B. ___ I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Enforcement Section of the Water Resources Department.
- C. ___ REFER this review to Enforcement Section for concurrence.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

I concur in G/H's recommendation A or B above relating to conditioning or withholding the permit.

_____, 1993.

(Signature)

I do not concur in G/H's recommendation A or B above relating to conditioning or withholding the permit for the following reasons: _____

_____, 1993.

(Signature)

(WRFORM8\91)

January 24, 1996

BALIN RANCH
13600 HOMEDALE ROAD
KLAMATH FALLS, OREGON

97603

RE: Permit G-12236

You should have recently received your permit to use groundwater (G-12128). This letter is to emphasize the water use development requirements listed in the Final Order that accompanied your permit.

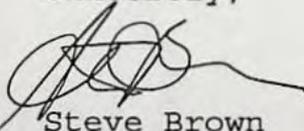
As stated in PERMIT CONDITION number 4 of your Final Order, it is necessary to begin actual construction of your well(s) within one year of the date of issuance of your permit (the "A" date). Because your application indicates that you have already constructed your well(s), you have satisfied this requirement. If this assumption is not correct, you must advise us when you have met the requirement.

In addition, construction of your water system must be completed by October 1, 1997 (the "B" date), and the water must be fully applied to beneficial use by October 1, 2000 (the "C" date) except upon approval of a request for extension of these time limits.

Please use Forms B and C (enclosed) to notify us upon completion of these requirements. When you have completed construction of your water system, complete and send Form B; send Form C after you have used your water to the full extent intended under by the permit.

Please feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,


Steve Brown
Water Rights Program Analyst
Water Right/Adjudication Division

cc: Steve Applegate

cce



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

STATE OF OREGON

COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BALIN RANCH
13600 HOMEDALE ROAD
KLAMATH FALLS, OREGON

97603

541-882-9797

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: G-12972

SOURCE OF WATER: A WELL IN THE LOST RIVER BASIN

PURPOSE OR USE: PRIMARY AND SUPPLEMENTAL IRRIGATION OF 307.1 ACRES

RATE OF USE: 3.5 CUBIC FEET PER SECOND

PERIOD OF ALLOWED USE: APRIL 15 THROUGH OCTOBER 15

DATE OF PRIORITY: JUNE 5, 1992 FOR 250 ACRES, AND DECEMBER 23, 1992 FOR 57.1 ACRES

POINT OF DIVERSION LOCATION: SE 1/4 NW 1/4 SECTION 18, T41S, R14E, W.M.; 150 FEET NORTH AND 640 FEET WEST OF THE CENTER 1/4 CORNER OF SECTION 18.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

<u>LOCATION</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NW 1/4 NW 1/4	2.1 ACRES	34.6 ACRES
SW 1/4 NW 1/4	2.9 ACRES	34.9 ACRES
NW 1/4 SW 1/4	1.0 ACRE	
SW 1/4 SW 1/4		38.0 ACRES
SE 1/4 SW 1/4	2.0 ACRES	
	Section 7	
NE 1/4 NW 1/4	19.0 ACRES	20.0 ACRES
NW 1/4 NW 1/4		38.8 ACRES
SW 1/4 NW 1/4		39.7 ACRES
SE 1/4 NW 1/4	16.7 ACRES	23.3 ACRES
SW 1/4 NE 1/4	13.3 ACRES	
NW 1/4 SE 1/4	13.3 ACRES	
SW 1/4 SE 1/4	7.5 ACRES	

Section 18

TOWNSHIP 41 SOUTH, RANGE 14 EAST, W.M.

SEE NEXT PAGE

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AUG 02 1992

WATER RESOURCES DEPARTMENT
CLATSOP COUNTY

Application G-12972

Water Resources Department

PERMIT G-12458

The use of water under this permit may expire or be extended five years from issuance of the permit. A water right certificate shall be issued at the end of the five year period if the Director finds:

- A. River stage or Bonanza Big Spring flows are not significantly diminished by use of water under this permit as determined by the Oregon Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review;
- B. Within two years of permit issuance for primary use, the permittee/appropriator has submitted a plan to the Department indicating potential economical sources for an alternative long-term water supply;
- C. Periodic water level reports have been submitted; and
- D. Excessively declining ground water levels have not occurred due to well use and determined by the Oregon Water Resource Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review.

The amount of water used for irrigation under this right, together with the amount used under any other right existing for the same land, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

Measurement, recording and reporting conditions:

- #1 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 by April 15, 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.
- #2

SEE NEXT PAGE

RECEIVED

AUG 02 2012

WATER RESOURCES DEPT
STATE OF OREGON

Application G-12972 Water Resources Department

PERMIT G-12458

RECEIVED

AUG 02 2012

WATER RESOURCES DEPT
SALEM, OREGON

PAGE 3

- 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.

The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

#3

A static water level measurement shall be made and submitted before any use of water may commence from the well.

#4

The permittee shall obtain a static water-level measurement for each well during March and October of each year and report the measurements to the Department. The measurement shall be made by a certified water rights examiner, registered geologist, licensed land surveyor or registered professional engineer, licensed water well constructors, licensed water well drillers or the permittee/appropriators. Water levels shall be reported as depth-to-water below ground level in feet and inches or to one-hundredth of a foot and shall be accompanied by supporting calculations. The water user shall report the static water level(s) in the well(s) to the Groundwater/Hydrology Section of the Water Resources Department by April 15 and November 15, respectively, of each year.

If substantial interference with a senior surface or ground water right occurs due to withdrawal of water from the well(s) listed on this permit, then use of water from such well(s) shall be discontinued or reduced or the schedule of withdrawal shall be regulated until the Department approves or implements an alternative administrative action to mitigate such interference.

Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

The permit is for the beneficial use of water without waste.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

#5

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Actual construction work shall begin on or before January 18, 1997 and shall be completed on or before October 1, 1997. Complete application of the water to the use shall be made on or before October 1, 2000.

The Director finds that the proposed use(s) of water described by this permit will not impair or be detrimental to the public interest.

This permit is issued to correctly describe the dates for measuring and reporting static water level, beginning and completion of construction, complete application of the water to the use allowed herein, and water use conditions relating to practical technologies or conservation practices. Permit G-12236 is superseded by this instrument and is of no further force or effect.

Issued July 31, 1996

Martha O. Pagel
for Water Resources Department
Martha O. Pagel
Director

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AUG 02 2012

WATER RESOURCES DEPT
SALEM, OREGON

SUPERSEDED

STATE OF OREGON
COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BALIN RANCH
13600 HOMEDALE ROAD
KLAMATH FALLS, OREGON

Phone No. 541-882-9797

97603

The specific limits for the use are listed below along with conditions of use.

APPLICATION FILE NUMBER: G-12972

SOURCE OF WATER: A WELL IN THE LOST RIVER BASIN

PURPOSE OR USE: Primary and supplemental irrigation of 307.1 acres.

Rate of use: 3.5 CUBIC FEET PER SECOND

Period of allowed use: MARCH 1 THROUGH SEPTEMBER 30 OF EACH YEAR.

DATE OF PRIORITY: JUNE 5, 1992 FOR 250 ACRES, AND DECEMBER 23, 1992 FOR 57.1 ACRES.

POINT OF DIVERSION LOCATION: SE 1/4 NW 1/4 SECTION 18, T41S, R14E, W.M.; 150 FEET NORTH AND 640 FEET WEST OF THE CENTER 1/4 CORNER OF SECTION 18.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

<u>LOCATION</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>
NW 1/4 NW 1/4	2.1 ACRES	34.6 ACRES
SW 1/4 NW 1/4	2.9 ACRES	34.9 ACRES
NW 1/4 SW 1/4	1.0 ACRE	
SW 1/4 SW 1/4		38.0 ACRES
SE 1/4 SW 1/4	2.0 ACRES	
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SW 1/4 NE 1/4	13.3 ACRES	
NW 1/4 SE 1/4	13.3 ACRES	
SW 1/4 SE 1/4	7.5 ACRES	

Section 18

TOWNSHIP 41 SOUTH, RANGE 14 EAST, W.M.

SEE NEXT PAGE

The lands described herein as supplemental irrigation may, due to the status of the inchoate underlying primary right, be exercised for primary irrigation, provided the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.

The use of water under this permit may expire or be extended five years from issuance of the permit. A water right certificate shall be issued at the end of the five year period if the Director finds:

- A. River stage or Bonanza Big Spring flows are not significantly diminished by use of water under this permit as determined by the Oregon Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review;
- B. Within two years of permit issuance for primary use, the permittee/appropriator has submitted a plan to the Department indicating potential economical sources for an alternative long-term water supply;
- C. Periodic water level reports have been submitted; and
- D. Excessively declining ground water levels have not occurred due to well use and determined by the Oregon Water Resource Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review.

The amount of water used for irrigation under this right, together with the amount used under any other right existing for the same land, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

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 by April 15, 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.

SEE NEXT PAGE

- 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.

The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

A static water level measurement shall be made and submitted before any use of water may commence from the well.

The permittee shall obtain a static water-level measurement for each well during March and September of each year and report the measurements to the Department. The measurement shall be made by a certified water rights examiner, registered geologist, licensed land surveyor or registered professional engineer, licensed water well constructors, licensed water well drillers or the permittee/appropriators. Water levels shall be reported as depth-to-water below ground level in feet and inches or to one-hundredth of a foot and shall be accompanied by supporting calculations. The water user shall report the static water level(s) in the well(s) to the Groundwater/Hydrology Section of the Water Resources Department by April 15 and October 15, respectively, of each year.

If substantial interference with a senior surface or ground water right occurs due to withdrawal of water from the well(s) listed on this permit, then use of water from such well(s) shall be discontinued or reduced or the schedule of withdrawal shall be regulated until the Department approves or implements an alternative administrative action to mitigate such interference.

Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

This right is limited to any deficiency in the available supply of any prior right existing for the same land.

SEE NEXT PAGE

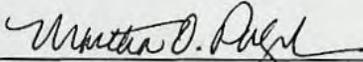
Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Director finds that the proposed use(s) of water described by this permit, as conditioned, will not impair or be detrimental to the public interest.

Issued January 18, 1996



Water Resources Department
Martha O. Pagel
Director

COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

CC: FILE # G 12972

WATERWATCH

~~ODF&W~~

WATERMASTER # 11

REGIONAL MANAGER - Bob Mann

CWRE - Erwin Ritter, 2333 Summers Ln. Falls, OR 97103

OTHER ADDRESSES:

CASEWORKER

ORIGINAL TO APPLICANT 7/29/93

A technical review of the application was completed and a report of the results of that review was mailed to the applicant, and parties that had commented on the proposed use of water, on AUGUST 11, 1993.

The technical review determined:

The use is not prohibited by Statute;
Water for the proposed use is available in the amounts requested; and
The proposed use would not injure existing water rights, provided the conditions proposed by the report of technical review were included in any permit issued in approval of the application.

Objections to the Satisfactory Report of Technical review were submitted to the Department by the applicant, Oregon Department of Fish and Wildlife, U.S. Bureau of Reclamation and WaterWatch of Oregon.

The Department retained the services of Dr. Ron Hathaway and Dr. Ray William to facilitate alternative dispute resolution (ADR) discussions in an attempt to resolve the objections to the report of technical review.

The ADR discussions resulted in the Oregon Department of Fish and Wildlife and U.S. Bureau of Reclamation agreeing not to oppose the issuance of a permit in approval of the application if conditions were included in the permit to address their concerns as follows:

PERMIT CONDITIONS.

Water use under the permits shall be conditioned as follows:

1. Period of allowed use: MARCH 1 THROUGH SEPTEMBER 30 of each year.
2. Rate (cfs or gpm) and/or Volume (acre/feet or gallons) of use: 3.5 cubic feet per second.
3. The use of water is limited to primary and supplemental irrigation of 307.1 acres.
4. Water use development requirements:
 - A. Begin construction within one year from issuance of permit.
 - B. Complete construction by October 1, 1997.
 - C. Completely apply the water to beneficial use by October 1, 2000.

5. The use of water under this permit may expire or be extended five years from issuance of the permit. A water right certificate shall be issued at the end of the five year period if the Director finds:
 - A. River stage or Bonanza Big Spring flows are not significantly diminished by use of water under this permit as determined by the Oregon Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review;
 - B. Within two years of permit issuance for primary use, the permittee/appropriator has submitted a plan to the Department indicating potential economical sources for an alternative long-term water supply;
 - C. Periodic water level reports have been submitted; and
 - D. Excessively declining ground water levels have not occurred due to well use and determined by the Oregon Water Resource Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review.
6. The amount of water used for irrigation under this right, together with the amount used under any other right existing for the same land, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
7. 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 by April 15, 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.
8. The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.
 9. A static water level measurement shall be made and submitted before any use of water may commence from the well.
 10. The permittee shall obtain a static water-level measurement for each well during March and September of each year and report the measurements to the Department. The measurement shall be made by a certified water rights examiner, registered geologist, licensed land surveyor or registered professional engineer, licensed water well constructors, licensed water well drillers or the permittee/appropriators. Water levels shall be reported as depth-to-water below ground level in feet and inches or to one-hundredth of a foot and shall be accompanied by supporting calculations. The water user shall report the static water level(s) in the well(s) to the Groundwater/Hydrology Section of the Water Resources Department by April 15 and October 15, respectively, of each year.
 11. If substantial interference with a senior surface or ground water right occurs due to withdrawal of water from the well(s) listed on this permit, then use of water from such well(s) shall be discontinued or reduced or the schedule of withdrawal shall be regulated until the Department approves or implements an alternative administrative action to mitigate such interference.
 12. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.
 13. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
 14. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

15. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

WaterWatch did not agree to the proposed permit conditions listed above. The Department responded by letter to WaterWatch addressing the issues raised and their objections were denied. A protest of the denial of objections was filed with the Department on June 8, 1995.

The WaterWatch protest raises the same issues contained in the previously filed objections. These issues were considered as part of the ADR process and conditions were added to the proposed permit to reflect the parties' and Department's determination of how the concerns should be addressed.

Given the previous ADR process and agreement reached by all parties except WaterWatch, the protest is denied.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Department has determined the appropriate step in the application process is to issue a final order as provided under ORS 537.170 (6).
2. Pursuant to ORS 537.170 (6), If, after the contested case hearing or, if a hearing is not held, after the close of the period allowed to file a protest, the Director determines that the proposed use would not impair or be detrimental to the public interest, the Director shall issue a final order approving the application or otherwise modifying the proposed final order.
3. The lands under this application described as supplemental irrigation, do not have underlying water rights of record as evidenced by certificates. The primary rights are being claimed in the Klamath Adjudication currently in process. The following condition is to be included in any permit issued in approval of the application:

The lands described herein as supplemental irrigation may, due to the status of the undetermined underlying primary right, be exercised for primary irrigation, provided the total quantity diverted from all sources of supply does not exceed the limitation allowed herein.

4. In proceeding with evaluation of Application G-12972 required pursuant to ORS 537.170, the criteria found to be relevant by the Department is as follows:
 - a. The Klamath Basin does not have a basin program established pursuant to ORS 536.300;

- b. The Department has determined water would likely be available, as conditioned; and
 - c. The proposed use, as conditioned, will not injure other water rights; and
 - d. The use complies with other rules of the Commission.
5. The Department has determined that, if exercised as conditioned in the attached permit, neither substantial interference with existing rights, nor harm to fishery resources or water quality will occur.

The period of allowed use is MARCH 1 THROUGH SEPTEMBER 30 OF EACH YEAR.

The Department finds that no more than 3.5 CUBIC FEET PER SECOND would be necessary for the proposed use. The amount of water requested is allowed.

Klamath County Planning Department staff completed the Department's Land Use Information Form and indicated thereon that the land use associated with the proposed use is compatible with the Klamath County Comprehensive Land Use Plan.

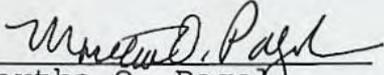
The proposed use complies with all other rules of the Commission.

The Department finds that a non-rebutted presumption has been established and the proposed use would not impair or be detrimental to the public interest pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly if exercised in the manner described in PERMIT G-12236.

ORDER

IT IS HEREBY ORDERED that Application G-12972 in the name of BALIN RANCH be approved for primary and supplemental irrigation of 307.1 acres as provided in PERMIT G-12236.

DATED January 18, 1996


Martha O. Page
Director
Water Resources Department

NOTICE:

This Final Order is issued by the Department pursuant to Chapter 416, Oregon laws, 1995, enacted by the 68th Oregon Legislative Assembly.

This Final Order has modified the Department's prior findings or conditions, therefore, the applicant may request a contested case hearing within 14 days from the date of this order. Issues on which a contested case hearing may be requested and conducted are limited to issues based on modifications to the Proposed Settlement Agreement.

Requests for a contested case hearing must be made in proper form, submitting the information required under Section 11(6), Chapter 416, Oregon Laws, 1995.

Requests for a contested case hearing must be received by the Water Resources Department in Salem, Oregon by 5:00 pm on February 1, 1996.

Only the applicant and any persons who timely filed a protest may appeal the provisions of this final order in the manner established in ORS 183.310 to 183.550 for appeal of order other than contested cases.

STATE OF OREGON
WATER WELL REPORT
 (as required by ORS 537.765)

KLAM
10642 NOV 23 1992

415/14E/18cd

WATER RESOURCES DEPT
 SALEM, OREGON

(START CARD) # **39907**

(1) OWNER: Well Number # **1**
 Name **BALIN RASCITES**
 Address **13600 HUMERDALE RD**
 City **KLAMATH FALLS** State **ORE** Zip **97601**

(9) LOCATION OF WELL by legal description:
 County **KLAMATH** Latitude _____ Longitude _____
 Township **41S** N or S. Range **14E** E or W. WM. _____
 Section **18** **SE** $\frac{1}{4}$ **SW** $\frac{1}{4}$ _____
 Tax Lot **00350** - **600** Block _____ Subdivision _____
 Street Address of Well (or nearest address) **WEST CARROLL VALLEY RD BENTON, ORE**

(2) TYPE OF WORK:
 New Well Deepen Recondition Abandon

(3) DRILL METHOD:
 Rotary Air Rotary Mud Cable
 Other _____

(4) PROPOSED USE:
 Domestic Community Industrial Irrigation
 Thermal Injection Other _____

(5) BORE HOLE CONSTRUCTION:
 Special Construction approval Yes No Depth of Completed Well **224** ft.
 Explosives used Yes No Type _____ Amount _____

(10) STATIC WATER LEVEL:
 _____ **15** ft. below land surface. Date **10/23/92**
 Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:
 Depth at which water was first found _____

HOLE Diameter		SEAL		Amount		
From	To	Material	From	To	sacks or pounds	
22	0	19	COMBAT	0	19	25 SKS

From	To	Estimated Flow Rate	SWL
383	724	INDETERMINATE	

How was seal placed? Method A B C D E
 Other _____

(12) WELL LOG:
 Ground elevation _____

Backfill placed from _____ ft. to _____ ft. Material _____
 Gravel placed from _____ ft. to _____ ft. Size of gravel _____

Material	From	To	SWL
Boulders & Brown Clay	0	2	
BLACK BASALT	2	155	
GREY BASALT	155	219	
HARD BROWN ASH	219	279	
HARD GREY BASALT	279	302	
BLACK BASALT	302	376	
HARD BLACK BLACK BASALT	376	389	
BROWN LAVA & CLINDONS	389	389	
BROWN BLACK BASALT	389	400	
BROWN LAVA & CLINDONS	400	406	
BROWN BROWN LAVA & CLAM ASH	406	423	
BROWN SANDSTONE	423	429	
BROWN LAVA & CLAM ASH	429	460	
BLACK BASALT	460	522	
BROWN LAVA & CLAM ASH	522	557	
BLACK BASALT	557	583	
BROWN LAVA & CLAM ASH	583	602	
HARD BLACK BASALT	602	614	
BROWN LAVA & CLAM ASH	614	647	
GREY BASALT	647	675	
BROWN LAVA & RED CLAM ASH	675	688	
HARD GREY BASALT	688	724	

(6) CASING/LINER:
 Diameter From To Gauge Steel Plastic Welded Threaded
 Casing: **16" O.D. +1** **19** **2SD**
 Liner: _____

Final location of shoe(s) **19 FEET**
 (7) PERFORATIONS/SCREENS:
 Perforations Method _____
 Screens Type _____ Material _____

Date started **9/23/92** Completed **10/23/92**

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						<input type="checkbox"/>	<input type="checkbox"/>

(unbonded) Water Well Constructor Certification:
 I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my best knowledge and belief.

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Bailer Air Flowing Artesian
 Yield gal/min _____ Drawdown _____ Drill stem at _____ Time _____
 _____ _____ _____ 1 hr.
1000 _____ **150** _____

WWC Number _____
 Signed _____ Date _____

Temperature of Water **64 OF** Depth Artesian Flow Found _____
 Was a water analysis done? Yes By whom _____
 Did any strata contain water not suitable for intended use? Too little
 Salty Muddy Odor Colored Other _____
 Depth of strata: _____

(bonded) Water Well Constructor Certification:
 I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.
 Signed _____ WWC Number **601**
 Date **11/20/92**

MAP TO ACCOMPANY GROUND WATER APPLICATION

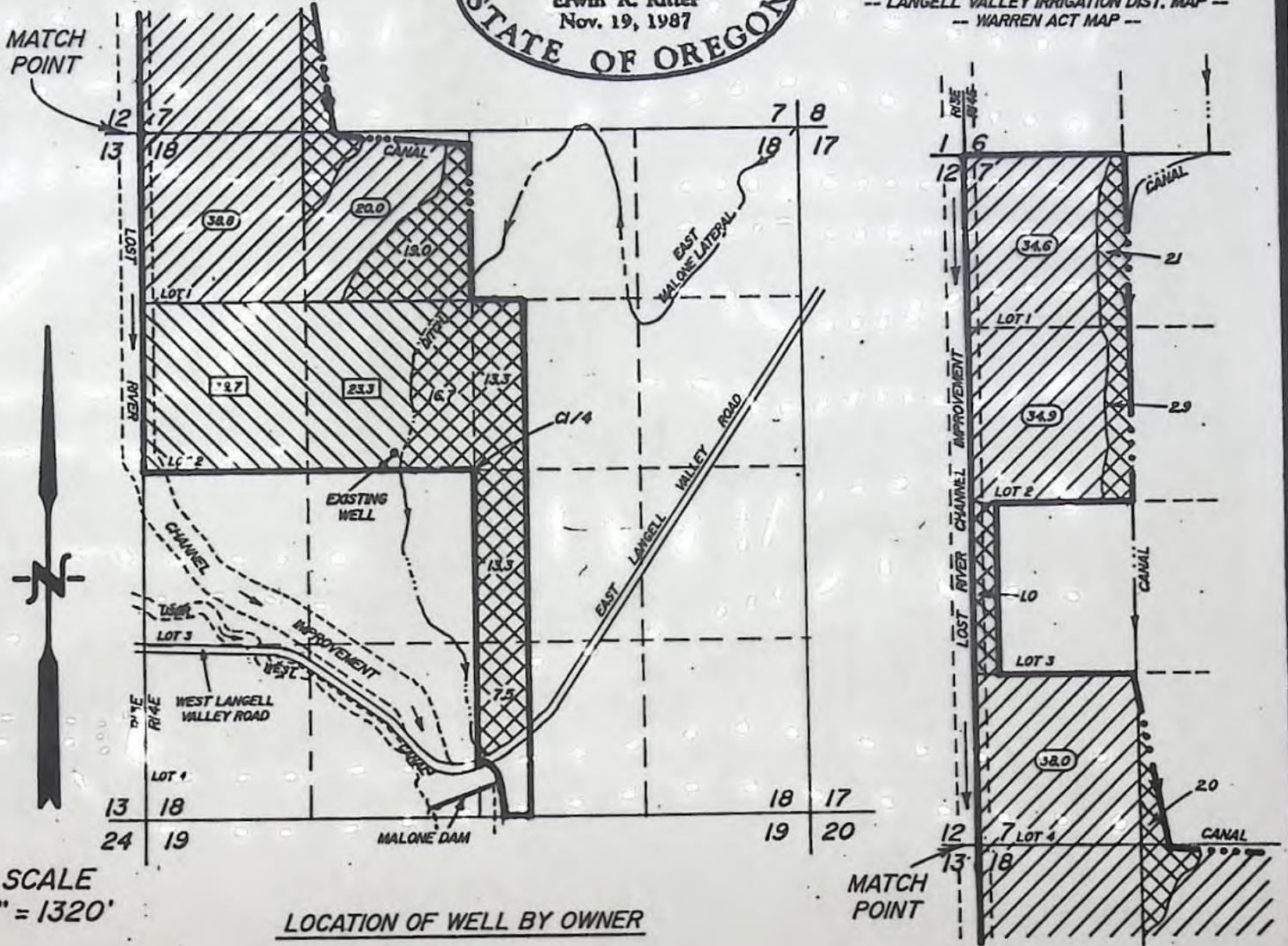
SITUATED IN THE W1/2 NW1/4 AND SW1/4 OF SECTION 7,
 THE W1/2 SE1/4, SW1/4 NE1/4 AND THE NW1/4 OF
 SECTION 18, T41S, R14EWM, KLAMATH COUNTY, OREGON
 DECEMBER 1992

WATER RESOURCES DEPT.
 SALEM, OREGON

MAP PREPARED FOR
 -- BALIN RANCH --



MAP PREPARED FROM
 -- ASSESSORS MAPS --
 -- LANGELL VALLEY IRRIGATION DIST. MAP --
 -- WARREN ACT MAP --



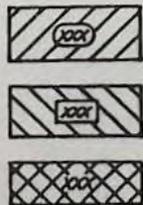
SCALE
 1" = 1320'

LOCATION OF WELL BY OWNER

150 FEET NORTH AND 640 FEET WEST OF
 THE CENTER 1/4 CORNER OF SECTION 18

TOTAL AREA THIS APPLICATION

-- 307.1 Ac. --



LANDS SUPPLEMENTAL TO WARREN ACT	166.3 Ac.
LANDS SUPPLEMENTAL TO LANGELL VALLEY IRRIGATION DISTRICT	63.0 Ac.
PRIMARY LANDS THIS APPLICATION	77.8 Ac.

application #12972
 permit G12236

THE PURPOSE OF THIS MAP IS TO IDENTIFY THE LOCATION OF THE
 WATER RIGHT. IT IS NOT INTENDED TO PROVIDE INFORMATION RELATIVE
 TO THE LOCATION OF PROPERTY OWNERSHIP BOUNDARY LINES.

TRU-LINE SURVEYING
 2333 SUMMERS LANE
 KLAMATH FALLS, OR. 97603

Application No. G - 12972

RECEIVED

JUN 05 1992

State of Oregon
WATER RESOURCES DEPARTMENT WATER RESOURCES DEP
SALEM, OREGON

Application for a Permit to Appropriate Ground Water

Applicant(s) Balin Ranch
(Please print or type - use dark ink)

Mailing Address: 13600 Homedale Rd
Klamath Falls OR 97603 882-9797
City State Zip Daytime Phone No.

I (We) make application for a permit to appropriate the following described ground waters of the State of Oregon:

1. **THE DEVELOPMENT** (number of wells, tile lines, infiltration galleries, etc.):
One

If development is less than one mile from a natural stream, give the following:

Distance from development to stream: 1,000 ft

Elevation difference between streambed and development: 10 ft

NOTE: Wells must be constructed according to standards set by the department for the construction and maintenance of water wells. If the well is already constructed, please enclose a copy of the well driller's log with this application, and skip to Section 2 below.

Diameter of well: 18" Depth in feet: 350

Type and size of well casing: 15" No. of feet: 150

Estimated depth to water: 100

Type of access port or measuring device: minimum 3/4" diameter hole

Wells to be drilled by: Despina

Address: Klamath Falls OR

If the water well is flowing artesian, describe your water control and conservation works:

Well head with 8" valve

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 3.5 cubic feet per second, OR 3,000 gallons per minute. If water is to be used from more than one ground water source, give the quantity of water from each:

3. INTENDED USE(s) OF WATER: Livestock pasture - Supple. Irrigation

If for more than one use, give the quantity of water from each source for each use; _____

If for DOMESTIC use, state the number of households to be supplied; _____

If for MUNICIPAL OR QUASI-MUNICIPAL use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.)

If for MINING use, state the nature (gold, silver, etc.) of the mines to be served; _____

If for IRRIGATION, or other land area use, state the TOTAL number of acres to be developed under each use;

Irrigation 2.50
Other (describe) _____

4. DESCRIPTION OF WATER DELIVERY SYSTEM: Include dimensions and type of construction of diversion works, length and dimensions of supply ditches or pipelines, size and type of pump and motor. If for irrigation, describe the type of system (i.e., flood, wheel line, hand line, drip, other).

reservoir - then open ditch

5. PROJECT SCHEDULE: (List month and year)

Proposed date construction work will begin ASPA as soon as possible
Proposed date construction work will be completed as soon as possible
Proposed date water use will be completed Aug 92

NOTE: A map prepared by a Certified Water Right Examiner (CWRE) and a complete legal description of the subject property are required under ORS 537.140 and OAR 690 as a part of your application. The legal description may be copied from your deed, title insurance policy, or land sales contract.

RECEIVED

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

I certify that I have examined the foregoing application, together with the accompanying information, and am returning it to you for:

In order to retain its tentative priority, this application must be returned with the requested corrections or additions on or before:

_____, 19__.

WITNESS my hand this _____ day of _____, 19__.

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 5th day of June, 1992, at 1:15 o'clock, P M.

APPLICATION NO: G-12972

RECEIVED

DEC 23 1992

RECORDS DEPT
OREGON

97481

Vol. m89 Page 3405

-BARGAIN & SALE DEED-

HAROLD BALIN, also known as HAROLD EDWARD BALIN,
and JOAN BALIN, also known as JOAN LOUISE BALIN, Grantors, convey
to BALIN FARM TRUST, an Oregon Business Trust, Grantee, the
following described real property situate in Klamath County,
Oregon, to-wit:

TOWNSHIP 41 SOUTH, RANGE 13 OF THE WILLAMETTE MERIDIAN,
KLAMATH COUNTY, OREGON

Section 1: The SE $\frac{1}{4}$ SW $\frac{1}{4}$, the S $\frac{1}{2}$ SE $\frac{1}{2}$ and S $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{2}$
Section 12: The E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$

TOWNSHIP 40 SOUTH, RANGE 9 EAST OF THE WILLAMETTE
MERIDIAN, Klamath County, Oregon:

Section 11: The SE $\frac{1}{4}$
Section 12: The W $\frac{1}{2}$ EXCEPT the North 677 feet thereof;
the W $\frac{1}{2}$ E $\frac{1}{2}$ lying Westerly of the U.S.B.R. "C"
Canal.

Section 13: Beginning at the Northwest corner of the
NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 13; thence South along
West line of said Section 13, 15 chains;
thence East 40 chains to a point 15 chains
South of the Northeast corner of the NE $\frac{1}{4}$ NW $\frac{1}{4}$
of said Section 13; thence North 15 chains;
thence West 40 chains to point of
beginning; ALSO the NW $\frac{1}{4}$ NE $\frac{1}{4}$

TOWNSHIP 41 SOUTH, RANGE 14 EAST OF THE WILLAMETTE
MERIDIAN, KLAMATH County, Oregon:

Section 6: Lots 4, 5, 6 & 7, the West half of Lot 3,
the W $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ and the W $\frac{1}{2}$ E $\frac{1}{2}$ SW $\frac{1}{4}$

Section 7: Lots 1, 2 & 4, the West 182 feet of Lot 3.
A piece or parcel of land in the SE $\frac{1}{4}$ SW $\frac{1}{4}$ of
said Section 7, more particularly described
as follows: Beginning at the Northwesterly
corner of said Southeast quarter of
Southwest quarter of said Section 7, and
running thence Easterly along the Northerly
boundary thereof 34.8 feet; thence South
5°27' East 1326.0 feet, more or less, to a
point in the Southerly boundary thereof;
thence Westerly along the said Southerly
boundary thereof 160.7 feet, more or less,
thence Northerly along the Westerly boundary
thereof 1320 feet, more or less, to the said
point of beginning.

Section 18: The NW $\frac{1}{4}$ and the West 440 feet of the SW $\frac{1}{4}$ NE $\frac{1}{4}$
and the West 440 feet of the SE $\frac{1}{4}$ EXCEPT that
portion lying within the U.S.B.R. West
Canal. ALSO EXCEPT that portion of the NW $\frac{1}{4}$
lying North and East of the Canal.

'89 FEB 24 PM 4 03

BRANDSNES & BRANDSNES, P.C.
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
411 PINE STREET
KLAMATH FALLS, OREGON 97601

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

RECEIVED
DEC 23 1992

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.

Applicant's Name: BALIN RANCH
 Address: 13600 HOMEDALE ROAD
 City: KLAMATH FALLS State: OR Zip: 97603 Day Phone: 884-2452

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) 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.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
41-14-18-300	EFU-CG - AGRICULTURE			✓
41-14-1400 & 1500	" " "			✓

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used. Klamath County
 The following section must be completed by a planning official from **each** county and city listed unless your project will be located **entirely within city limits**. In this case, only the city planning agency must complete this form. Please request extra forms as needed.

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below. If the form is not completed within 60 days, the Department may take action to approve the water use.

a) Check the appropriate box below and provide requested information.

Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): Land Development Code. Go to section b) on reverse side.
Section 54.020 A

Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)**

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily
N/A				

Description of Water Use

RECEIVED
FEB 29 1992

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

WATER RESOURCES DEPT.
SALEM, OREGON

Applicant Name: BALIN RANCH
 Address: 13600 HOMEDALE ROAD
KLAMATH FALLS, OR 97603
 Phone: 804-2452

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- Irrigation (crop type, golf course, nursery or greenhouse): _____
- Livestock (type of livestock, feedlot, slaughterhouse): _____
- Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- Institutional (i.e., school, library, etc.): _____
- Mining (aggregate, metal, open pit, placer, etc.): _____
- Recreation (park, campsite, pond, etc.): _____
- Fish and Wildlife (pond, hatchery, etc.): _____
- Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
<input type="checkbox"/> Reservoir or pond	
<input checked="" type="checkbox"/> Ground Water	

August 11, 1993

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS, OR 97603

WATER
RESOURCES
DEPARTMENT

Reference: G-12972

This letter informs you of the current status of your application for a water use permit and accompanies the Satisfactory Report of Technical Review For Water Use Permit(s). We apologize for the delay in transmitting this information and Report to you and for any inconvenience the wait may have caused you.

The enclosed Report of Technical Review is the Department's summary of a specialized analysis of various legal and scientific aspects of your application and proposed water use. We are required by the state of Oregon's administrative rules (in OAR 690-11-160) to conduct this official technical review of each application submitted to the Oregon Water Resources Department for a water use permit. This process was designed to insure that your application receives a fair evaluation and to secure protection of existing water rights and of the public at large.

AS THE RESULT OF OUR TECHNICAL EVALUATION OF YOUR APPLICATION, WE HAVE DETERMINED THAT YOUR APPLICATION SATISFIES THE REQUIREMENTS OF THE TECHNICAL REVIEW.

The Department will now move your application to the next phase of processing. This phase includes a public interest review of your proposed water use. No final action may be taken on your application until the public interest review is completed.

You should also note that the Report of Technical Review describes conditions currently anticipated which may limit the water use proposed in your application.

If you wish to object to any of the analyses contained in the Report, you must submit your objection to the Department in writing within 60 days of the date of mailing of this Report or by the date specified below. Your objection must allege that the technical review is defective and you may also submit evidence which demonstrates that your proposed water use will not impair or be detrimental to the public interest.

Copies of the Report of Technical Review will be distributed to all persons who have filed comments or otherwise expressed an interest in the water use proposed in your application. Interested parties must also submit their objections within the prescribed objection period. Those objections must allege that the technical review is defective and/or that the proposed water use may impair or be detrimental to the public interest.



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

If an objection contains allegations that the technical review is defective, it must be accompanied by facts which support such allegations. If an objection contains allegations that the proposed water use may impair or be detrimental to the public interest, the objection must specify the particular public interest standards which apply as set out in Oregon Revised Statutes (ORS 537.170(5)) and Oregon Administrative Rules (OAR 690-11-195) and state facts showing how such standards would be violated.

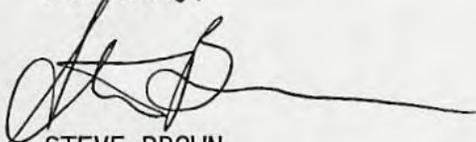
All evidence and objections must be received by our Salem office **no later than 5:00 p.m. on or before October 13, 1993** or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

If objections and evidence are submitted on or before the above time and date, the Director of the Water Resources Department will evaluate each issue raised in the objections and either accept or deny them. Objectors are encouraged to indicate whether they would be interested in resolving their concerns through alternative dispute resolution.

If any of the objections are denied, the objector will be allowed thirty days to submit a protest to the denial. The protest must meet the standards set forth in OAR 690-02-030 through 080.

If you have any questions, please feel free to telephone me or any of the Department's Water Rights Section staff. My telephone number is 378-3739, in Salem, or you may call toll free from within the state to 1-800-624-3199.

Sincerely,



STEVE BROWN
Manager
Water Rights Division

Enclosures

Report Date: 8/11/93

OREGON WATER RESOURCES DEPARTMENT

SATISFACTORY REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT(S)

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE OREGON WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD N.E., SALEM, OREGON 97310, BY 5 P.M. ON OR BEFORE:

10/13/93.

1. APPLICATION FILE NUMBER - G-12972

2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS, OR 97603
KLAMATH Co. 503-882-9797

Date application received for filing and/or tentative date of priority: 6/ 5/1992

SOURCE: A WELL

TRIBUTARY TO: LOST R

Purpose and/or use: PRIMARY AND SUPPLEMENTAL IRRIGATION OF 250 ACRES.

Flow: 3.50 cfs

Point of Diversion Location:

SE 1/4 NW 1/4, SECTION 18, T 41 S, R 14 E, W.M.

Place of use:

NWNW
SWNW
NWSW
SWSW
Section 7

NENW
NWNW
SWNW
SENW
Section 18
T 41 S, R 14 E, W.M.

GROUNDWATER AVAILABILITY

This is an application for use of groundwater. The Groundwater/Hydrology Section report indicates that:

Pursuant to OAR 690-09-040, the proposed groundwater withdrawal will have the potential to cause substantial interference with surface water.

In addition, the Groundwater/Hydrology Section has reported that the use of groundwater **can, if properly conditioned,** avoid injury to existing rights or to the groundwater resource.

CONFLICTS WITH OTHER WATER RIGHTS:

There are no existing rights from this point of diversion.

There are existing water rights appurtenant to the lands described in the application. See proposed permit conditions.

REPORT CONCLUSIONS:

Water in the amount of 3.125 CFS is likely available for 7 months of the 7 months normal period of Irrigation use. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

THE PROPOSED WATER USE, AS CONDITIONED, SATISFIES THE REQUIREMENTS OF THIS TECHNICAL REVIEW.

This Report of Technical Review sets out the Director's technical analysis of the application. In addition to this technical analysis, the Director will evaluate this application to determine whether the proposed water use might impair or be detrimental to the public interest under the standards set out in ORS 537.170(5) and OAR 690-11-195. Matters relating to public interest in the proposed water use which are raised in objections will be evaluated following the 60-day objection period.

PROPOSED PERMIT CONDITIONS

Application: G-12972

The following conditions will apply to water use under the permit, and will appear in the permit.

1. Period of allowed use: March 1 through September 30 of each year.
2. Rate (cfs or gpm) and/or Volume (acre/feet or gallons) of use: **3.125 CFS**
3. Water use development requirements:
 - A. Begin construction by (one year from issuance of permit).
 - B. Complete construction by October 1, 1996.
 - C. Completely apply the water to beneficial use by October 1, 1997.
4. The use of water under this permit will expire (five years from the issuance of the permit). The permit may be extended if the Director finds that:
 - A. Surface water flows are not significantly diminished;
 - B. Within two years of permit issuance, the permittee has submitted a plan to the Commission indicating potential sources for an alternative long-term water supply;
 - C. Periodic water level reports have been timely submitted; and
 - D. Excessively declining water levels have not occurred.
5. The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.
6. 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.
7. The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.
 8. The permittee/appropriator shall install a meter or other suitable measuring device approved by the Director and submit an annual report of water used under this permit to the Department by April 15 of each year.
 9. A static water level measurement shall be made and submitted before any use of water may commence from the well.
 10. The permittee shall obtain a static water-level measurement for each well during March and September of each year and report the measurements to the Department. The measurement shall be made by a certified water rights examiner, registered geologist, licensed land surveyor or registered professional engineer. Water levels shall be reported as depth-to-water below ground level in feet and inches or to one-hundredth of a foot and shall be accompanied by supporting calculations. The water user shall report the static water level(s) in the well(s) to the Groundwater/Hydrology Section of the Water Resources Department by April 15 and October 15, respectively, of each year.
 11. If substantial interference with a senior surface or ground water right occurs due to withdrawal of water from the well(s) listed on this permit, then use of water from such well(s) shall be discontinued or reduced or the schedule of withdrawal shall be regulated until the Department approves or implements an alternative administrative action to mitigate such interference.

12. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
13. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
14. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
15. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

Hal Balin
13600 Hornedale Road
Klamath Falls, Oregon
97603

Balin Ranches
Aug 30, 1993

Oregon Water Resources Dept.
3850 Portland Rd N.E.
Salem OR 97310

RECEIVED

SEP - 2 1993

WATER RESOURCES DEPT.
SALEM, OREGON

Reference: G-12972

Dear Sir:

In regards to your letter of Aug 13, 1993 and as per phone conversation with Mr. Cory Eglin on Aug 30, 1993, I submit the following information.

There was approx 58 Ac ~~in~~ that was left off the original map. then letter submitted for. A check for \$116⁰⁰ covering the additional 58 Acres was sent to your office on December 21, 1992. I would like you to process this application as soon as possible for the total 308 Acres paid ^{for} and as shown on the check stub No 9598 that is in your file.

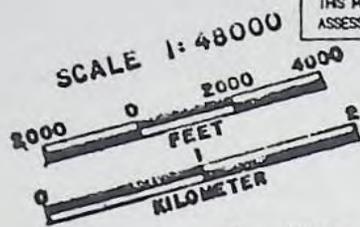
Sincerely,
Balin Ranches
Harold Balin

Hal Balin
13600 Homedale Road
Klamath Falls, Oregon
97603



Oregon Water Resources Dept.
3850 Portland Rd N.E.
Salem OR 97310

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.



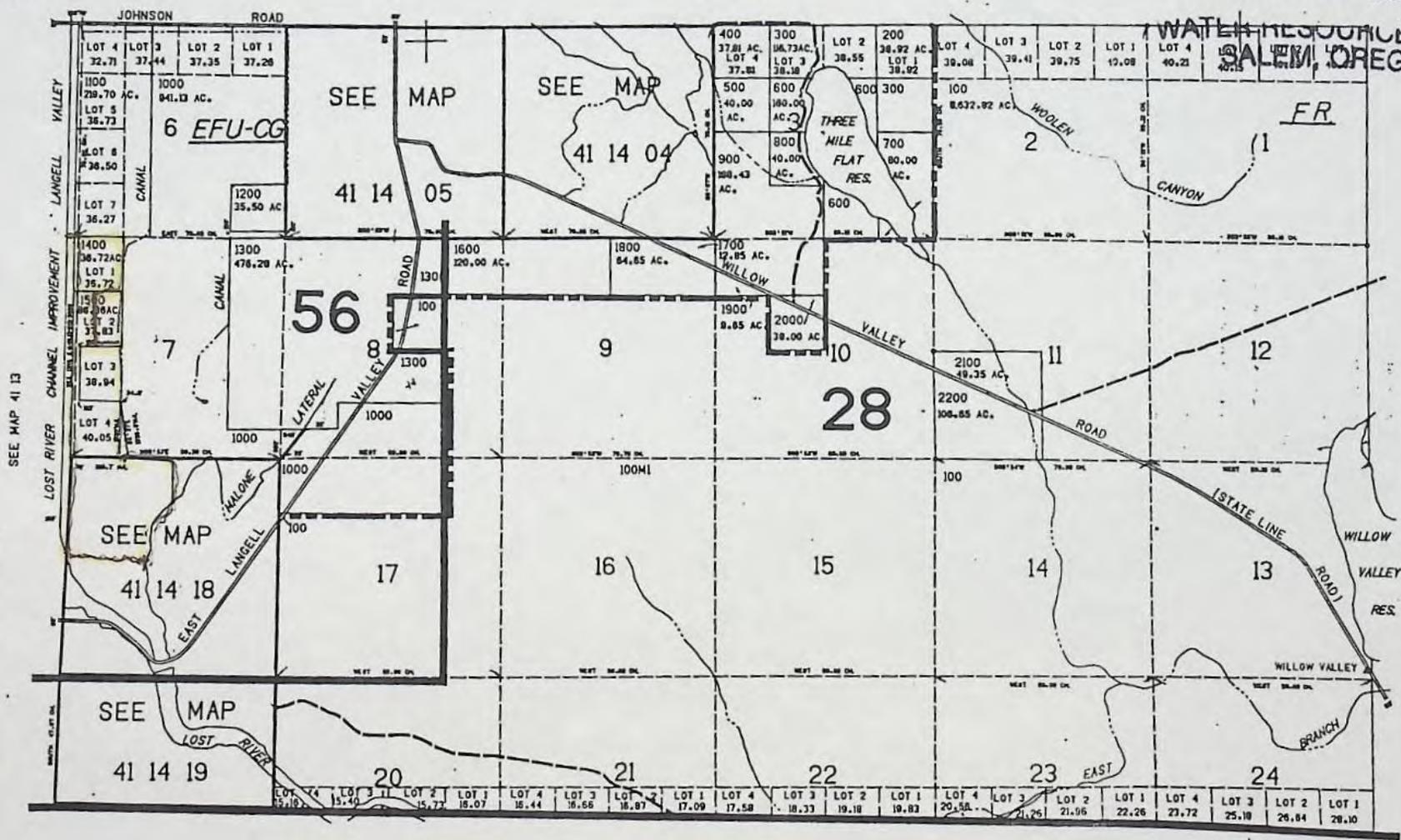
RECEIVED

JUN 05 1992

SEE MAP 40 14

WATER RESOURCES DEP
SALEM, OREGON

Application No. G-12472
Permit No.



SEE MAP 41 13

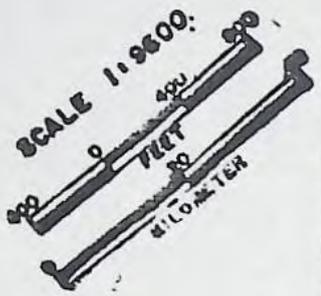
SEE MAP 41 14

CALIFORNIA

120,000

SECTION 18 T.110. N.11E. W.11E.
KLAMATH COUNTY
1"=400'

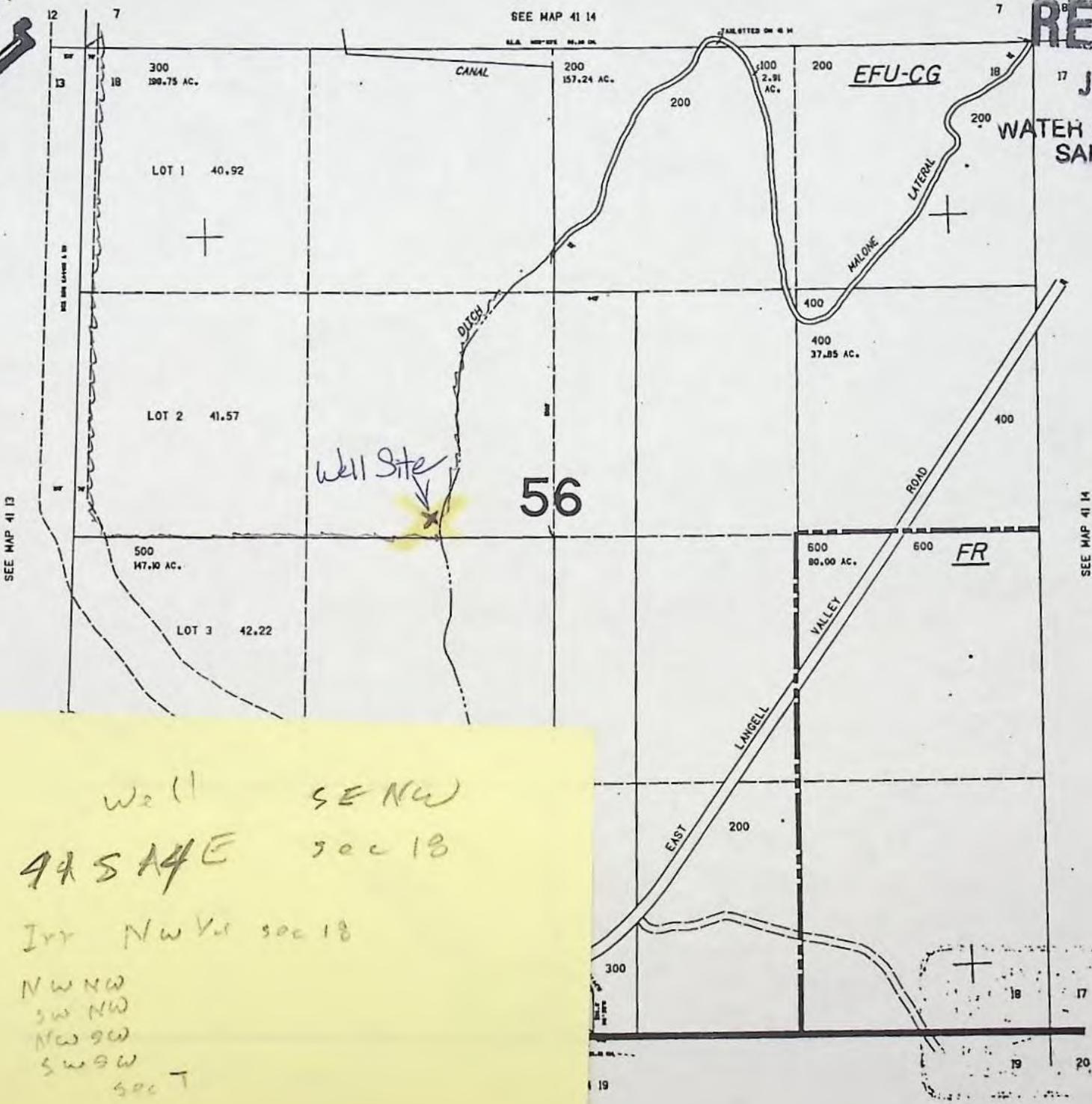
THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.



RECEIVED

17 JUN 05 1992
WATER RESOURCES DEP
SALEM, OREGON

Application No. G-12
Permit No.



Well SE NW
9454E sec 18
Irr NW 1/4 sec 18
NW NW
SW NW
NW SW
SW SW
sec 7

125,000

May 15, 1995

Karen Russell, Assistant Director
WaterWatch of Oregon
213 SW Ash Street, Suite 208
Portland, Oregon 97204

Re: Denial of Objections to Application File Numbers:

G 12493	G 12494	G 13514	Circle Five Ranch
G 12618			Haskins & Co Inc
G 12644			Lost River Ranch
G 12732			Earl Weirsma
G 12735			George Teague
G 12746			Donald Horsley
G 12766			William B. Hill
G 12768			Elso DeJong
G 12772			Carl Gibson
G 12777	G 12808		Halousek Brothers
G 12811			Lynn R. Pope
G 12814			Donald R. Manning
G 12860			Weyerhaeuser Co.
G 12874			Kenneth Masten
G 12876			Charles Masten and Ned Goecken
G 12885			S. C. Masten
G 12885			Gary Williams (Peggy Biaggi)
G 12935			John Dark
G 12955			B. Bennett & J. Connelly
G 12972	G 13184		Balin Ranches
G 12994			Charles Cheyne
G 13011			W. E. Hammerich
G 13019			Wells Farms Inc.
G 13101			Barrett Livestock
G 13106			Grohs Ranch
G 13387			William DeJong

Dear Ms. Russell:

The Director of the Water Resources Department has reviewed the Objections filed jointly by WaterWatch and Oregon Natural Resources Congress to the proposed water use reported in the Satisfactory Report of Technical Review announced for the application files listed above. In light of the agreement that was reached between the Oregon Department of Fish and Wildlife (ODFW), Bureau of Reclamation (BOR) and the above-listed applicants, the Director has determined that all of your Objections to the proposed uses are hereby denied.



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Karen Russell, Assistant Director
May 15, 1995
Page Three

public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited.

You may protest this denial of your Objections. You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in the Oregon Administrative Rules, Chapter 690, Division Two, Sections 030 through 080. (OAR 690-02-030 through 080).

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before June 15, 1995. Your protest must be in proper form and accompanied by a fee of \$25.00.

If you have any questions, please call.

Sincerely,

Dwight Freund FOR

Steven P. Applegate, Administrator
Water Rights and Adjudications Division

Enclosures: Conditions

cc: Applicants
Michael Ryan, Bureau of Reclamation
Roger Smith, Oregon Department of Fish and Wildlife
Kip Lombard, Attorney, City of Bonanza
files



United States Department of the Interior

BUREAU OF RECLAMATION

MID-PACIFIC REGION
KLAMATH PROJECT
6600 WASHBURN WAY

KLAMATH FALLS, OREGON 97603-9365



IN REPLY
REFER TO:

RECEIVED

OCT 12 1993

OCT 14 1993

CERTIFIED RETURN RECEIPT REQUESTED

WATER RESOURCES DEPT.
SALEM, OREGON

KO-400
WTR-4.10

Oregon Water Resources Department
3850 Portland Road NE
Salem OR 97310

Subject: Protest of Application for Groundwater Use in the Bonanza,
Oregon Area (Water Rights Protest)

We have recently become aware of Agenda Item E for the October 1, 1993, meeting of the Water Resources Commission. The information presented in this agenda item briefing indicates a strong possibility that a connection exists between groundwater and surface water supplies in the Bonanza, Oregon area. A follow-up conversation with Fred Listner, Oregon Department of Water Resources, indicated that a technical evaluation supporting the connection between groundwater and surface water will be forthcoming in the near future.

The U.S. Bureau of Reclamation (Reclamation) depends on the flows from Bonanza Springs to satisfy contractual agreements with Horsefly Irrigation District and to satisfy pre-project rights to the use of Lost River water. The Lost River watershed is over-appropriated and it has been the policy of Reclamation to protest all surface water applications that would require water use during the irrigation season. Accordingly, in January 1991, the Klamath Project requested the Water Resources Commission close the Lost River to further appropriations. To our knowledge, this was not acted upon by the Commission.

Until a method is developed by the State of Oregon to adequately determine the extent of depletion of the springs in the Bonanza area caused by groundwater pumping during the irrigation season, we must object to the granting of any non-domestic groundwater permits in the Bonanza area. As you are aware, any depletions would have to be replaced with stored water from Reclamation reservoirs located above Bonanza (Gerber and Clear Lake Reservoirs).

Full

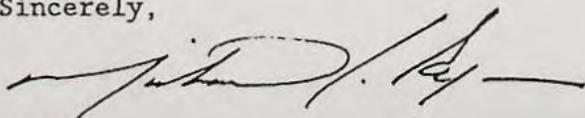
Specifically, the following applications are being objected to:

36
copies

Application Number	Name of Applicant	Address	Town	State
G 12493	Circle Five Ranch Inc.	45850 Gerber Road	Bonanza	OR
G 12494	Circle Five Ranch Inc.	45850 Gerber Road	Bonanza	OR
G 12507	Babson, Denis G	1450 Waverly Street	Palo Alto	CA
G 12567	Rookhuyzen, Loyal	14270 Hill Road	Klamath Falls	OR
G 12617	Uecker, Susan	230 California STE 410	San Francisco	CA
G 12618	Haskins and Co. Inc.	Route 1, Box 796	Bonanza	OR
G 12642	Smith, Richard A	10166 E Langell Valley R	Bonanza	OR
G 12644	Lost River Ranch	25400 N. Poe Valley Road	Klamath Falls	OR
G 12732	Wiersma, Earl & Pam	P O Box 177	Bonanza	OR
G 12735	Teague, George & Sara	889 Old Midland Road	Klamath Falls	OR
G 12746	Horsley, Donald	P O Box 8	Bonanza	OR
G 12766	Hill, William V	3286 E Langell Valley R	Bonanza	OR
G 12772	Gibson, Carl	10440 W Langell Valley R	Bonanza	OR
G 12777	Halousek, Larry	P O Box 258	Malin	OR
G 12811	Pope, Lynn	21660 Pope Road	Merrill	Or
G 12814	Manning, Donald R.	P O Box 365	Bonanza	OR
G 12860	Weyerhaeuser Co.	P O Box 9	Klamath Falls	OR
G 12869	Babson, Denis G	1450 Waverly Street	Palo Alto	CA
G 12874	Masten, Kenneth	Route 2, Box 21	Bonanza	OR
G 12876	Masten, Charles	Route 2, Box 22	Bonanza	OR
G 12877	Masten, S C	P O Box 156	Bonanza	OR
G 12885	Williams, Gary	17000 W Langell Valley R	Bonanza	OR
G 12897	Gorden, Kenneth	25638 Highway 70	Bonanza	OR
G 12901	Smith, Richard A	10166 E Langell Valley R	Bonanza	OR
G 12935	Dark, John	28289 Pickett Road	Malin	OR
G 12955	Bennett, Bradley	P O Box 216	Bonanza	OR
G 12972	Balin Ranch	13600 Homedale Road	Klamath Falls	OR
G 12979	Unruh, Clark	30403 Pickett Road	Malin	OR
G 12994	Cheyne, Charles	10057 E Langell Valley R	Bonanza	OR
G 13011	Hammerich, WE	18419 W Langell Valley R	Bonanza	OR
G 13012	Mendiboure, Winifred	P O Box 23	Malin	OR
G 13013	Jeld-Wen Inc.	P O Box 1883	Klamath Falls	OR
G 13019	Wells Farms Inc.	22700 Schaupp Road	Klamath Falls	OR
G 13041	Cheyne, Robert & Helen	9682 Greenbrier Drive	Klamath Falls	OR
G 13096	Stastny, Edwin Jr.	32121 Highway 50	Malin	OR
G 13101	Barrett Livestock	9747 E Langell Valley R	Bonanza	OR
G 13106	Grohs Ranch	21010 W Langell Valley R	Bonanza	OR

If you have any questions, please contact Jim Bryant at (503) 883-6935.

Sincerely,



Michael J. Ryan
Project Manager

January 13, 1995

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS OR 97603

Reference: File number(s) 12972

Dear Bonanza Area Groundwater Applicant:

Enclosed is a list of applications filed for use of groundwater in the Lost River Basin. Technical reviews have been issued for each of these applications. Objections have been filed in opposition to each of the technical reviews. Department staff met with the applicants on August 15, 1994. In addition, Department staff participated in the Health Division "Bonanza Summit" on November 1, 1994.

As we stated at the August 15, 1994, meeting we have determined that the objections filed by the Bureau of Reclamation, Oregon Department of Fish and Wildlife and WaterWatch of Oregon raise valid public interest issues. (Copies of these objection letters are enclosed.) Department rules allow for voluntary alternative dispute resolution (ADR) to resolve public interest issues if possible. The dispute resolution discussions are specifically intended to address these public interest issues. The purpose of the August 15 meeting was to initiate the ADR discussions.

However, at the August 15 meeting a number of individuals indicated that they felt they could prove that use of water from their wells located within the study area described in the "Groundwater Open File Report" (Gorman Report # 94-01) would not have the potential for interference with the surface water of the Lost River. Department staff encouraged individuals to submit any additional information they had or could develop concerning the interference question. At the request of a number of applicants, we transmitted a letter on October 4, 1994, outlining the examples of the type of information that would be of value to either confirm the Gorman Report or modify its conclusions. In our October 4 letter we agreed to put the ADR discussions on hold pending receipt of additional groundwater information.



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

January 13, 1995
Page Two

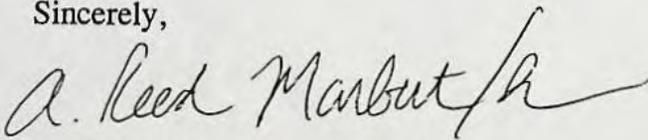
At the November 1 Bonanza Summit we met with a number of applicants, representatives of the City of Bonanza, Bureau of Reclamation staff, Health Division staff and other interested parties to understand how all parties could participate in discussions concerning the impact of development of the pending groundwater applications. A number of individuals indicated that it would take a few months for the parties to develop options for solutions to the City of Bonanza water quality problems. However, to date we have not received any additional groundwater information, nor have we received details as to the status of the Bonanza Summit discussions.

We are aware of the potential for great expense associated with gathering and analyzing additional data relative to the groundwater/surface water connection. Nevertheless, we do not feel we can further delay our ADR discussions. We would like to schedule the first discussion for 7:00 p.m., February 7, 1995, at the Oregon State Extension Service Building, 3328 Vandenberg RD, in Klamath Falls.

We are required to address all public interest issues raised by the objectors and would like to resolve as many as possible by way of the ADR process. However, if you elect not to participate in the ADR discussions we propose to schedule a contested case proceeding to address the issues set out in the objections. Therefore, if you do not wish to participate in the ADR discussions, please send me a written statement to that effect before the February 7, 1995 meeting. Be sure to include your file number on any correspondence.

If you elect to participate in the ADR discussions please attend the February 7, 1995 meeting. If you have questions please call Dwight French at (503) 378-8455, Ext. 268 or Bob Main at 388-6669.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc

Enclosures

cc: Martha O. Pagel
Bob Main
Dwight French
Fred Lissner
Steve Sanders

WaterWatch

O F O R E G O N

- Water Quality
- Proposed use ~~is~~ not a public interest.

By FAX 378-8130 and Regular Mail

October 13, 1993

Oregon Water Resources Department
Water Rights Section
3850 Portland Road NE
Salem, Oregon 97310

- Temporary Permits
not a public interest

Re: Objections to Technical Reports for: G-12567, Rookhuyzen
G-12617, Uecker; G-12618, Haskins & Co.; G-12642, Smith;
G-12732, Wiersma; G-12735, Teague; G-12746, Horsley;
G-12766, Hill; G-12772, Gibson; G-12777, Halousek; G-12811, Pope;
G-12814, Manning; G-12869, G-12507, Babson; G-13101, Livestock;
G-13041, Cheyne; G-13019, Wells; G-13013, Jeld-Wen; G-13012, Mendiboure;
G-13011, Hammerich; G-12994, Cheyne; G-12979, Unruh; G-12955, Bennett;
G-12935, Dark; G-12897, Gorden; G-12885, Williams; G-12877, G-12876, G-12874
Masten; G-13096, Stastny; G-13106, Ranch; G-12972, Ranch; G-12901, Smith;
G-12493, G-12494, Circle Five Ranch; G-12860, Weyerhaeuser
Applications for Irrigation in the Lost River Basin

Other (APP.) - 5 year permit not long enough.
- not surface water

Overview

The above referenced applications, when viewed as a whole, propose to pump approximately 131 cfs of ground water for irrigation use in the Lost River Basin (approximately 20 cfs is for primary irrigation use, approximately 36 cfs is for supplemental irrigation use and the remainder is for both primary and supplemental irrigation use). Most, if not all of these applicants are located within irrigation districts in the basin which receive water from federal reclamation projects. In many cases these applicants are looking to ground water as a source of water supply because existing surface water supplies whether from natural flow or Bureau of Reclamation (BOR) projects in the basin, are insufficient to meet irrigation needs. This surface water shortage is due, in part, to changes in reservoir operations made to protect habitat for Lost River and shortnose sucker species listed as endangered under both the federal and state Endangered Species Acts. The recent drought has aggravated the existing water supply problems.

Unfortunately for these applicants, there is growing evidence that the ground water resource is not capable of supporting existing ground water pumping, much less these proposed uses of water. The Water Resources Department's own analysis is that ground water pumping has exceeded the capacity of the ground water resource and that the pumping is having substantial effects on surface water flows in the Lost River. The Lost River system supports two endangered suckers and currently suffers from severe water quality problems. Any solution to these applicants water supply problems will not come from ignoring existing

water supply and environmental problems and issuing permits for these application, whether temporary or permanent. The solution must come from increasing efficiencies in water use and achieving a better balance in water use in the basin. It is for these and other reasons that WaterWatch of Oregon and the Oregon Natural Resources Council (ONRC) submit these objections pursuant to OAR 690-11-170.

The Ground Water Resource

Ground water in the Bonanza area is directly connected to the Lost River. WRC Agenda Item E, October 1, 1993 at 3 (hereinafter Agenda Item E). The most prominent ground water discharge is Bonanza Big Springs. *Id.* Ground water pumping from already existing permitted and exempt ground water uses in the area has been found to reduce Bonanza Springs discharges to the Lost River. *Id.* at 4. The applications referenced above propose to tap the very same aquifer that feeds Bonanza Springs. See *Id.* and Water Availability Report-Surface Water Application, filled out by Watermaster Sparks for G-12617, December of 1991. It is hard to imagine a more clear case of ground water/surface water interaction.

Existing ground water use has, at times, resulted in reversal of the hydraulic gradient of the aquifer flow such that the Lost River is actually drawn into the ground water through Bonanza Springs. Agenda Item E at 2. This has been identified by the Oregon Health Division as one of the causes of ground water contamination in the area. *Id.* See also Preliminary Assessment of Occurrence of Bacterial Contamination of Ground Water in Bonanza, Oregon, Nelson, Oregon Health Division at 2. This ground and surface water quality contamination problems is an ongoing chronic problems that has been aggravated in the past few years by the area wide drought. Oregon Department of Human Resources - Sanitary Survey Report, City of Bonanza.

The Surface Water Resource

Quantity

The flow in the Lost River arises from storage releases of BOR projects and groundwater discharges. Agenda Item E, at 3. According to the Water Resources Department, "much of the flow of the Lost River is due to storage releases." *Id.*

Quality

The Department of Environmental Quality (DEQ) has identified the Lost River from river mile 0 to 65 as water quality limited. See Oregon's 1992 Water Quality Status Assessment Report, 305(b) Report, A-79. From river mile 0 to river mile 5 the Lost River's water quality violates dissolved oxygen level standards. It is incapable of supporting the designated beneficial use of aquatic life during the summer months. This section of the river also violates water quality parameters for pH, nutrients and algae rendering only partially

able to support the listed beneficial uses of aquatic life and aesthetics during the summer months. From river mile 5 to 65 (the segment containing Bonanza Springs) the water quality violations are year round for dissolved oxygen and fecal coliform parameters such that the listed beneficial uses of aquatic life and water contact are not supported. Agricultural practices have been identified by DEQ as a possible cause of these water quality problems.

The Fish Resource

The Lost River supports two endangered suckers, the short nose and lost river suckers. The United States Fish and Wildlife Service (USFWS) Lost River (*Deltistes luxatus*) and Shortnose (*Chasmistes brevirostris*) Sucker Recovery Plan provides a good description of the history of these suckers:

Lost River and shortnose suckers are endemic to the upper Klamath Basin of Oregon and California (Map, page 11). Within their range, early records indicate that the Lost River and shortnose suckers were widespread and abundant. Cope (1884) noted that Upper Klamath Lake sustained "a great population of fishes" and was "more prolific in animal life" than any body of water known to him at that time. Gilbert (1898) noted that the Lost River sucker was "the most important food-fish of the Klamath Lake region." At that time, spring sucker runs "in incredible numbers" (Gilbert 1898) were relied upon as a food source by the Klamath and Modoc Indians and were taken by local settlers for both human consumption and livestock feed (Cope 1879, Coots 1965, Howe 1968). Sucker runs were so numerous that a cannery was established on the Lost River (Howe 1968) and several other commercial operations processed "enormous amounts" of suckers into oil, dried fish, and other products (Andreasen 1975).

Recovery Plan at 4. The decline of these suckers has been recognized since the mid-1960's, but the severity of the decline was not recognized until the 1980's. Recovery Plan Executive Summary.

In 1988 both species were listed under the federal Endangered Species Act as endangered. Executive summary. These species are also listed under the Oregon Endangered Species Act. By that time, entire stocks had already disappeared from sections of the Klamath Basin. *Id.* Both species of sucker are found in the Lost River. The Lost River and shortnose suckers are lake dwelling but spawn in tributary streams or springs. Recovery plan at 9, Executive Summary. Recent studies indicate that Bonanza Big Springs provides critical spawning habitat to at least some of these sucker populations. Recovery Plan at 9.

The USFWS has identified water diversion and water quality problems associated with agricultural practices as some of the causes of the decline of these species. *Id.* "Reduction

and degradation of lake and stream habitat in the Upper Klamath Basin has been proposed by the (USFW) Service as the major factor in the decline of both species." Executive. Summ. The recovery actions identified by the USFWS in the recovery plan for the suckers include improving habitat conditions by, among other things, developing and achieving water quality and water quality goals, improving fish habitat and improving land management practices. Executive summary. To date, no streamflow goals have been established for suckers in the Lost River.¹

◆ **The Technical Reports are Defective.**

The technical reports fail to include many of the elements and evaluations required in OAR 690-11-160(1). The following are specific areas of deficiency:

- The reports fail to assess whether the proposed uses are restricted by statute. OAR 690-11-160(1)(b).
- The reports fail to assess the proposed uses with respect to conditions on other permits from the same source or the same type of use. OAR 690-11-160(1)(c).
- The reports fail to assess the uses with respect to all applicable administrative rules. OAR 690-11-160. For example, the reports do not assess the uses with respect to the applicable basin plan.
- The reports fail to evaluate potential conflicts with existing rights. OAR 690-11-160(1)(e). The information outlined in the section entitled CONFLICTS WITH OTHER WATER RIGHTS does not meet this requirement. The scope of the information is narrowly focused on other rights from the same point of diversion and for lands described in the applications. The rules are not that limited. The technical report must evaluate the potential for conflict with existing rights — rights that use the same source of water and rights that use other sources that may be affected by the proposed withdrawals.
- The reports fail to evaluate water availability from the proposed source pursuant to OAR 690-11-160(f).
- The reports do not evaluate whether the amount requested is necessary to meet the proposed use. OAR 690-11-160(1)(g).

¹ The Oregon Department of Fish and Wildlife has developed recommended flows for trout habitat. See attachment 1. However, these may not be appropriate for suckers needs.

- Finally, there is no evaluation of land use compatibility. OAR 690-11-160(1)(h).

◆ **The Uses As Proposed are Not in the Public Interest.**

The proposed uses fail to pass the public interest considerations in ORS 537.525, 537.620 and 537.170 and the policies of Oregon's laws calling for the protection of native and anadromous fish, ORS 496.430 et sec. See also, OAR 690-11-195(3)(b), (d), (4)(a), (4)(b), (4)(c)(A), (4)(d), (4)(e), (4)(f). The State holds the waters from all sources of supply, in trust for the public. ORS 536.310(1), ORS 537.110, ORS 537.334(2), ORS 537.535, OAR 690-410-010(1) and OAR 690-410-070(1). Use of Oregon's ground water can generally only allowed by permit or certificate. The Ground Water Act of 1955 (ORS 537.505 to 537.795) requires the Commission to deny permit requests unless it can ensure that the "public welfare, safety and health" are protected. ORS 537.620. Thus, when evaluating the above referenced applications the Commission has a duty to ensure that the uses will not harm the quality of the ground and surface waters (See ORS 468B.015(1), 468B.015(2), (4) OAR 690-410-070(2)(e)), and instream flow needs for fish populations (ORS 496.430, OAR 690-410-070(2)(h)). See also OAR 690-11-195(4)(c), (d) and (h).

The state and federal Endangered Species Acts also place a burden on the Commission. Under the state Act, the Commission is required to consult with the Oregon Department of Fish and Wildlife to ensure that any action taken by the Commission is consistent with ODFW programs to conserve the species or, if no plan is in place, that the act will not "reduce the likelihood of the survival or recovery of the threatened species of endangered species." ORS 496.182(2). The federal Act prohibits the "taking" of endangered species. 16 USCA § 1538(a)(1)(B). Taking is defined in Section (3)(18) includes "harm" as well as killing and capturing. 16 USCA § 1532 (19). The regulatory definition of "harm" includes "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 CFR § 17.3. Thus it is clear that actions by the Commission can rise to the level of an unpermitted taking of a species if habitat destruction or modification harms a listed species. See Palilia v. Hawaii Department of Land and Natural Resources, 649 F.Supp. 1070 (D. Hawaii 1986), aff'd, 852 F.2d 1106 (9th Cir. 1988). Significantly, the above reference Palilia case, the oft-cited case on habitat alteration rising to the level of take involved a state agency allowing goats to destroy the food source of an endangered bird. Taking water from fish is at least as clear a causal connection.

Listing under the state and federal endangered species act is a sign not only of the health of a particular species but also a warning signal for the health of the human environment. It has been a goal of Governor Roberts and the state not to allow resource conflicts to reach the level where federal intervention removes the state control. The

proposed approval of these applications will inevitably lead to these issues being resolved in Washington D.C. not in Oregon.

1. The Water Availability Analysis is Defective

The analysis is defective for the following reasons:

- There was no analysis of surface water availability. The technical reports did not have any analysis of the status of water availability in the Lost River. As of September 29 there was no such analysis in any of the above referenced Department files. Since the uses in these applications will substantially interfere with Lost River flows, a surface water availability analysis is crucial to the water availability analysis for these ground water permits.

In addition, any such analysis must adequately consider rights-of-record. At any given moment there may be valid, but unexercised, water rights in a basin. Water users may at any time use the water to which they are legally entitled up to the limit of their rights-of-record. Failure to account for future increases in water use pursuant to rights-of-record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.

- The analysis appears to ignore existing and possible future uses of ground water that are exempt from Oregon's permitting requirements. We understand that there is no municipal water supply system in the City of Bonanza and most if not all residential uses of water in the City is diverted through exempt ground water wells. Thus, existing and future exempt wells have a cumulative impact on the resource and should be factored into the water availability analysis.

- The water availability analysis for surface flows in the Lost River must differentiate between natural flows and regulated flows (water released from upstream storage). There are many storage facilities in the Lost River system which contribute a majority of the water in the Lost River System. The flow releases from these federal projects are likely to be going through alterations in response to endangered species habitat concerns in the reservoirs. This will mean that flow regimes in the Lost River will be changing. If these proposed ground water uses in these applications essentially draw from surface waters then they may be using stored water. Failure to differentiate between natural flows and regulated flows in the analysis overestimates the amount of natural flow available for use, leads to unrealistic expectations on the part of the applicant and will result in the over-allocation of the resource. This is

Other Permit Conditions

In addition, the proposed permit conditions relating to measurement and reporting of water use would not be sufficient if by some stretch of the imagination these applications were in the public interest.

3. **The proposed uses are not in the public interest because they will deplete and adversely affect quantity and quality of water needed to meet the needs for endangered species uses of the Lost River.**

The proposed uses would deplete spring flows needed for endangered suckers in the Lost River. Adequate quantity and quality of water needed for migration and spawning are critical for the survival and restoration of sucker species in the basin. Reduced streamflows caused by depletion of springs by groundwater pumping contribute to higher water temperatures, reduced water quality and loss of aquatic habitat. Low flows impede passage and rearing in the mainstem Lost River. In addition, this water is proposed to be diverted for agricultural uses which have identified by DEQ as causing water quality problems. In addition, agricultural practices in the area have been identified by the USFWS as one of the causes of decline of the endangered suckers. The continued issuance of water use permits, whether temporary or permanent, in the face of the duty to protect critical habitat for threatened and endangered fish species, is contrary to the requirements of state and federal law.

4. **The proposed uses are contrary to Oregon policy.**

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. Instead of spending valuable state resources processing these applications, the state should be working to protect instream flows in this basin through the adoption of instream water rights. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a). The Commission's review relating to instream needs is not limited to existing instream water rights or applications for water rights, it must also consider instream flow needs that are not specifically protected. OAR 690-410-070(2)(h). No such consideration has been done.

Instream water rights are an essential tool that must be utilized if Oregon is to achieve equitable allocation of water. Instream water rights not only protect unallocated waters instream, they serve as a management objective for obtaining the amount of instream flows needed to support public uses. OAR 690-77-015(2). The presence of endangered sucker

populations in the Klamath River system makes the protection of instream flows even more important for achieving a balance in this basin. The establishment and protection of instream water rights will help to achieve a balanced allocation of water between public instream and other uses in the basin and throughout the state.

Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Protection of streamflows is also necessary in order to carry out the state policy of restoring native fish stocks. Oregon law states that "it is declared to be a goal of the people of the State of Oregon to restore native stocks of salmon and trout to their historic levels of abundance." ORS 496.435.

Oregon statutes and rules also call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). Proposed condition #8 does little to further these policies. Given the critical status of fish populations in the basin, the water quality problems and the fact that the proposed use is the type of use known to cause these existing problems, it is imperative that any use allowed be held to a strict efficiency standard prior to issuance of any new permits.

Oregon's statewide storage policy recognizes that storage is an "integral part" of the State's "strategy to enhance the public" benefits resulting from instream uses of Oregon's waters. OAR 690-410-080(1). The policy also recognizes that "(s)torage can provide increased water management flexibility and control." *Id.* One of the principles of the policy is to require that storage projects be managed in a way that will "protect and enhance the public health, safety and welfare, and the state's natural resources." OAR 690-410-080(2)(d). The Department's historic failure to manage stored water once it is released from storage and to distinguish between natural and regulated flows is not consistent with these policy mandates. Until the state begins to differentiate between natural and stored, and then begins to manage the resource consistent with that management strategy it will be ill-equipped to address the management and resource protection issues that it faces in the Klamath River Basin.³

³ This failure also undermines efforts of the BOR and other federal agencies to obtain water needed for fish in the Lost River basin. The endangered suckers rely both on lakes and on stream and spring habitat. This means the BOR and the state will have to develop a management strategy for the suckers that protect certain reservoir levels and instream flows. Unless and until the Department differentiates between natural flow and stored water, the Department is creating yet another situation where a person who does not have a rights to use stored water is diverting ground water which affects stored water flows - potentially the stored water that the public is paying to have released into the river for fish needs. This is

Finally, the Commission's statewide policy on ground water management states that "(g)roundwater and surface water shall be managed conjunctively where to do so will protect the water resources, existing water rights, and the public interest." OAR 690-410-010(2)(a). The Policy also requires that "(i)nterference between groundwater uses and competing ground and surface water uses shall be prevented and/or controlled to protect the water resource and existing rights." OAR 690-410-010(1). The policy recognizes the state's duty to prevent ground water overdraft or contamination in order to avoid environmental damage. *Id.* For the reasons outlined above, the proposed issuance of these pending applications are not consistent with any of the parts of this statewide policy.

◆ Conclusion

We are open to discussion with the Department and the applicants on all of the issues raised in this objection letter. However, in order to protect the public's interest in the resource, and the endangered fish species which rely on this resource, these and other applications for permits for water from the Lost River Basin should not be considered until sufficient instream flows are determined and guaranteed throughout the basin. Until these flows are determined, the Department has no way to ensure that new uses proposed in the system will not harm the public interest. It is bad public policy to issue water rights based upon limited information when there is clearly a biological crisis in this critical river system.

Sincerely,

Karen A. Russell
Assistant Director
WaterWatch

Wendel Wood
ONRC

encl.

not only contrary to Oregon water law, it undermines the efforts of federal, state, and local governments, tribal governments and concerned citizens who have been working to protect one of Oregon's, and the nations, most precious resources.

Attachment 1

OREGON DEPARTMENT OF FISH & WILDLIFE
MINIMUM FLOW RECOMMENDATIONS FOR LOST RIVER

PERIOD	MERRILL	BONANZA	RM 64.0
January	30	25	15
February	30	30	15
March	30	30	15
April	50	35	20
May	50	35	20
June	50	35	20
July	20	10	10
August	15	10	5
September	15	10	5
October	15	10	5
November	15	10	5
December	20	15	10

Flow recommendations in cubic feet per second.
Estimates for Trout habitat.

RECEIVED

FEB 17 1995

WATER RESOURCES DEPT.
SALEM, OREGON

WATER
RESOURCES
DEPARTMENT

February 10, 1995

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS OR 97603

RE: Bonanza Area Groundwater Applications

Dear Applicant and Interested party:

This letter is a summary of the February 7, 1995, meeting in Klamath Falls, Oregon, and a request for an indication whether you would be interested in participating in discussions. It is being delivered to all individuals who have been identified as Lost River/Bonanza area groundwater applicants who have received technical reviews with objections and all parties who are interested in the Department's decision on the applications.

At the February 7, meeting, the majority of the interested parties were present and seemed interested in moving towards resolution of the issues associated with these groundwater applications. The preferred alternative, as expressed by the majority of those in attendance was to enter into a process known as Alternative Dispute Resolution (ADR). ADR, simply stated, is a process for applicants and interested parties to resolve identified issues through facilitated discussion.

In response to comments at the February 7, meeting, I am polling all parties in an attempt to determine who will be involved in at least the first round of discussions.

Please indicate if you would not be interested in entering into ADR discussions with any, or all, of the following groups:

- Oregon Department of Fish and Wildlife
- WaterWatch of Oregon
- Bureau of Reclamation
- City of Bonanza
- other: _____

Your Name: Balin Ranches

Address: 13600 Homedale Rd
Klamath Falls Or

Phone: 503 884-2452 or 882-9797



Commerce Building
158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

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FEB 17 1995

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon

February 10, 1995

WATER
RESOURCES
DEPARTMENT

BALIN RANCHES
13600 HOMEDALE RD
KLAMATH FALLS OR 97603

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- WaterWatch of Oregon
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- other: _____

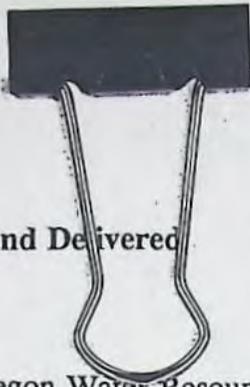
Your Name: Balin Ranches

Address: 13600 Homedale Rd
Klamath Falls, Or 97603

Phone: 503 882-9797 or 884-2452



Commerce Building
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WaterWatch

Hand Delivered

see file G-13184 for protest
June 8, 1995
[Signature]

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JUN 08 1995

WATER RESOURCES DEPT.
SALEM, OREGON

Oregon Water Resources Department
Water Rights Section
158 12th Street NE
Salem, Oregon 97310

Re: Protest of Applications:
G-13184, 12972, Balin Ranches, Irrigation, Lost River Basin

Dear Water Rights Section:

On May 17, 1995, WaterWatch received the Department's denial of WaterWatch's and ONRC's objections to the above referenced application. The public interest and policy issues raised in WaterWatch's objections were either not addressed, or not satisfactorily addressed, by the Department's denial letter. WaterWatch files this protest and a \$25 for each application (\$50 for both applications) pursuant to OAR 690-11-175(5) and 690-02-030 to 080. ONRC supports our protest of this application. We incorporate by reference our objection to this application.

A. Facts

These are two of approximately 40 applications pending in the Lost River Basin. The applicant proposes to divert 7.956 cfs (4.456 cfs from application G-13184, 3.5 cfs from G-12972) for irrigation from a well in the Lost River Basin. The Department found that this use is in hydraulic connection with the Lost River and that this use will have the potential to cause substantial interference with surface water. See technical review.¹

The Resource

The Ground Water Resource

Ground water in the Bonanza area is directly connected to the Lost River. WRC Agenda Item E, October 1, 1993 at 3 (hereinafter Agenda Item E). The most prominent ground water discharge is Bonanza Big Springs. Id. Ground water pumping from already

¹The applicant received a letter from the Department on 10/4/94 stating that if the applicant could prove that the use of groundwater would not interfere with the Lost River surface water, this information should be submitted to the Department. We found no such information in the file.

May 15, 1995

Karen Russell, Assistant Director
WaterWatch of Oregon
213 SW Ash Street, Suite 208
Portland, Oregon 97204

Re: Denial of Objections to Application File Numbers:

G 12493	G 12494	G 13514	Circle Five Ranch
G 12618			Haskins & Co Inc
G 12644			Lost River Ranch
G 12732			Earl Weirsma
G 12735			George Teague
G 12746			Donald Horsley
G 12766			William B. Hill
G 12768			Elso DeJong
G 12772			Carl Gibson
G 12777	G 12808		Halousek Brothers
G 12811			Lynn R. Pope
G 12814			Donald R. Manning
G 12860			Weyerhaeuser Co.
G 12874			Kenneth Masten
G 12876			Charles Masten and Ned Goecken
G 12885 ¹⁷			S. C. Masten
G 12885			Gary Williams (Peggy Biaggi)
G 12935			John Dark
G 12955			B. Bennett & J. Connelly
G 12972	G 13184		Balin Ranches
G 12994			Charles Cheyne
G 13011			W. E. Hammerich
G 13019			Wells Farms Inc.
G 13101			Barrett Livestock
G 13106			Grohs Ranch
G 13387			William DeJong

Dear Ms. Russell:

The Director of the Water Resources Department has reviewed the Objections filed jointly by WaterWatch and Oregon Natural Resources Congress to the proposed water use reported in the Satisfactory Report of Technical Review announced for the application files listed above. In light of the agreement that was reached between the Oregon Department of Fish and Wildlife (ODFW), Bureau of Reclamation (BOR) and the above-listed applicants, the Director has determined that all of your Objections to the proposed uses are hereby denied.



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158 12th Street NE
Salem, OR 97310-0210
(503) 378-3739
FAX (503) 378-8130

Karen Russell, Assistant Director
May 15, 1995
Page Two

Attached is a list of conditions that will be included on each permit for the Applications. The conditions numbered two and three are specific to each application and will be excluded and/or individually tailored as appropriate.

These conditions were agreed to by the BOR, ODFW and the Applicants during the Alternative Dispute Resolution meetings.

As a part of the settlement agreement, the ODFW and BOR have withdrawn their objections to all of the Applications listed.

The Department's Groundwater/Hydrology Section determined that use of water from the wells described in the Technical Reviews for the Applications would have the potential to interfere with the Lost River. However, the ODFW and BOR agreed that if the permits for these uses included the conditions set out in the settlement agreement, the surface flows of the Lost River would be protected.

Given the fact that the proposed conditions include a requirement for site specific monitoring for both surface and groundwater, the Department has determined that the settlement agreement conditions will adequately address the public interest issues raised by the objectors, including the issues raised in the objections of WaterWatch and ONRC.

You have alleged the Technical Report is defective and the use as proposed is not in the public interest.

You have asserted the Technical Report is defective because the report fails to contain many of the elements and evaluations required in OAR 690-11-160(1).

The rules of the Water Resources Commission require that the technical review analysis include the elements contained in OAR 690-11-160(1)(a)-(h). There is no requirement that the report of technical review include those elements. In order to maintain clarity and simplicity, a number of technical review factors included in the file checklists are not contained in the reports.

A technical review report is a summary of the technical evaluation conducted on a water use application.

Your objections do not meet the requirements of OAR 690-11-170(1). The Director has determined that you have not established that the Technical Review is defective. In addition, given the fact that each application will be conditioned in accordance with the settlement agreement, you have not identified elements of the proposed water use that may impair or be detrimental to the

Karen Russell, Assistant Director
May 15, 1995
Page Three

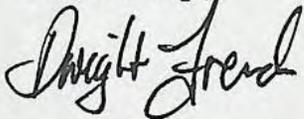
public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited.

You may protest this denial of your Objections. You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in the Oregon Administrative Rules, Chapter 690, Division Two, Sections 030 through 080. (OAR 690-02-030 through 080).

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before June 15, 1995. Your protest must be in proper form and accompanied by a fee of \$25.00.

If you have any questions, please call.

Sincerely,

 FOR

Steven P. Applegate, Administrator
Water Rights and Adjudications Division

Enclosures: Conditions

cc: Applicants
Michael Ryan, Bureau of Reclamation
Roger Smith, Oregon Department of Fish and Wildlife
Kip Lombard, Attorney, City of Bonanza
files

PROPOSED PERMIT CONDITIONS

Water use under the permits shall be conditioned as follows:

1. Period of allowed use: April 15 through October 15 of each year.
2. (SPECIFIC TO EACH APPLICATION) Rate (cfs or gpm) and/or Volume acre/feet or gallons) of use:
3. (SPECIFIC TO EACH APPLICATION) The use of water is limited to supplemental irrigation.
4. Water use development requirements:
 - A. Begin construction by (one year from issuance of permit).
 - B. Complete construction by October 1, 1997.
 - C. Completely apply the water to beneficial use, by five years from date of issuance of permit.
5. The use of water under this permit may expire or be extended five years from the date of issuance of the permit. Alternatively, a water right certificate shall be issued at the end of the five year period if the Director finds:
 - A. River stage or Bonanza Big Spring flows are not significantly diminished by use of water under this permit as determined by the Oregon Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review;
 - B. Within two years of permit issuance for primary use, the permittee/appropriator has submitted a plan to the Commission indicating potential economical sources for an alternative long term water supply;
 - C. Periodic water level reports have been submitted; and
 - D. Excessively declining ground water levels have not occurred due to well use as determined by the Oregon Water Resources Department, in consultation with the Bureau of Reclamation and Oregon Department of Fish and Wildlife, using quantifiable groundwater and hydrologic science that stands up to peer review.
6. The amount of water used for irrigation under this right, together with the amount used under any other right existing for the same land, is limited to a diversion of ONE-

EIGHTIETH of one cubic foot per second (or its equivalent) and 2.5 acre-feet for each acre irrigated during the irrigation season of each year.

7. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee/appropriator 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 by April 15, 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/appropriator shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located on private property, the watermaster shall request access upon reasonable notice.
8. The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and a pressure gauge adequate to determine water level elevation in the well at all times.
9. A static water level measurement shall be made and submitted before any use of water may commence from the well.
10. The permittee/appropriator shall obtain a static water-level measurement for each well during March and October of each year and report the measurements to the Department. The measurement shall be made by a certified water-rights examiner, registered professional geologist, certified engineering geologist, professional engineer, licensed well- constructor or pump installer licensed by the Construction Contractors Board or by the permittee/appropriator under the direction of the local watermaster. Water levels shall be reported as depth-to-water below ground in feet and inches or to one-hundredth of a foot and shall be accompanied by supporting calculations. The permittee/appropriator shall report the static water level(s) in the well(s) to the Groundwater/Hydrology Section of the Water Resources Department by April 15 and November 15, respectively, of each year.

Proposed Permit Conditions
Page Three

11. If substantial interference with a senior surface or ground water right occurs due to withdrawal of water from the well(s) listed on this permit, then use of water from such well(s) shall be discontinued or reduced or the schedule of withdrawal shall be regulated until the Department approves or implements an alternative administrative action to mitigate such interference.
12. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
13. The permit is for the beneficial use of water without waste.
14. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
15. This right is limited to any deficiency in the available supply of any prior right existing for the same land.

October 4, 1994

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS OR 97603

Reference: File number(s) 12972

Dear BALIN RANCH:

At our August 15, 1994, meeting in Bonanza a number of individuals indicated that they could prove that use of water from their wells located within the study area described in the "Groundwater Open File Report" (Gorman Report # 94-01) would not have the potential for interference with the surface water of the Lost River. Naturally, if such information is available, it should be submitted to the Water Resources Department as soon as possible. Information concerning the characteristics of the Lost River area groundwater reservoir and the relationship between the groundwater and surface water are critical to our evaluation of the use of water in the area.

In addition, a number of individuals at the meeting suggested that some form of groundwater test could prove that use of groundwater does not interfere with the Lost River surface water. These individuals asked if Department staff could assist with design of a groundwater test. Specifically, it was asked "what kind of information could we develop that would allow you to grant our permits."

While it is not possible to set out the precise parameters of a successful test, we can provide some general concepts of the type of information that would be of value in either a confirmation of the Gorman Report or a modification of its conclusions.

Staff in our Groundwater/Hydrology Section suggest that the following information could be useful:

1. Geologic mapping or aquifer testing showing physical barriers to the movement of groundwater to the river from the source your well taps;
2. Interpretation of existing geologic data demonstrating the groundwater underlying the study area is a different source of water than that discharging to the Lost River surface water;



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Salem, OR 97310-0210
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October 4, 1994
Page Two

3. A well by well analysis demonstrating that the specific aquifer being tapped is different than the one that discharges to lost River (e.g., the Lorrella project well); and
4. Water level head analysis demonstrating that the particular groundwater to be pumped from the well is at a different level than the aquifers known to be in connection with the Lost River surface water.

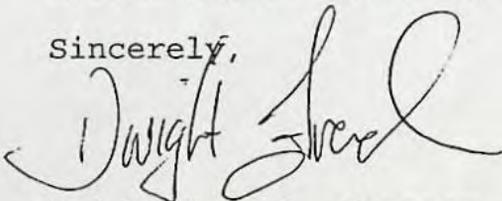
If a test includes actual test pumping, the pumping must be for a substantial period of time to demonstrate that there is no effect on the aquifer known to be in hydraulic connection with the Lost River.

It is essential that any test be designed and supervised by a qualified groundwater hydrologist. We suggest that the hydrologist review our files before the test is designed. In addition, the hydrologist should be in contact with Fred Lissner before beginning design of the test.

Given the interest in the groundwater test matter, we have put the alternative dispute resolution schedule on hold for the time being. We will not initiate our dispute resolution program until we have heard from you and other applicants concerning the test suggestion.

If you have questions concerning the groundwater test matter, please give Fred Lissner a call at (503) 378-3739. If you have questions concerning the dispute resolution, please give Reed Marbut a call (same number).

Sincerely,



Dwight French, Manager
Water Rights Section

cc: Senator Gene Timms
Martha Pagel, Director
Bob Main, SC Region Manager
Del Sparks, Watermaster

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OCT 15 1993

By FAX and regular mail

WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

October 13, 1993

Steve Brown
Water Rights Section
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

RE: Groundwater Application #s 12567, 12617, 12722, 12732, 12735, 12746, 12766, 12772, 12814, 12869, 13101, 13041, 13011, 12994, 12979, 12955, 12877, 12507, 12876, 12901, 12493, 12494.
Technical Review

Generally, ODFW
to use ground
on the fo

- ▶ A be
aquif
impact
- ▶ Groundw
screeni

However, in ca
a significant
are concerned
instream flows.
subject applicati
basin.

According to a WRD
1992,¹ there is cons
speculation and some evidence
that ground water and surface water in the Lost River area

¹Agenda Item L; Request for authorization to initiate withdrawal proceedings for a Lost River groundwater reservoir, Klamath County.

*SPoke w/ APPLICANT 11/29/93. Well
PROBABLY BE REQUESTING COPIES OF OBS.
Requested Copies Sent DLB
3 Jan 93*



RECEIVED

OCT 15 1993

By FAX and regular mail

WATER RESOURCES DEPT.
SALEM, OREGON



DEPARTMENT OF
FISH AND
WILDLIFE

October 13, 1993

Steve Brown
Water Rights Section
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

RE: Groundwater Application #s 12567, 12617, 12618, 12642, 12732, 12735, 12746, 12766, 12772, 12777, 12711, 12814, 12869, 13101, 13041, 13019, 13013, 13012, 13011, 12994, 12979, 12955, 12935, 12897, 12885, 12877, 12507, 12876, 12874, 13096, 13106, 12972, 12901, 12493, 12494, 12860, and 12644; Reports of Technical Review

Generally, ODFW does not review or comment on applications to use groundwater. This decision to not review is based on the following:

- ▶ A belief that groundwater withdrawals from confined aquifers generally have little or no direct short-term impacts on surface flows, and
- ▶ Groundwater withdrawals do not present fish passage or screening problems.

However, in cases where groundwater has been shown to have a significant hydraulic connection with surface water, we are concerned that groundwater withdrawals will impact instream flows. This appears to be the case with the 37 subject applications in the Lost River basin.

According to a WRD staff report presented to WRC June 5, 1992,¹ there is considerable speculation and some evidence that ground water and surface water in the Lost River area

¹Agenda Item L; Request for authorization to initiate withdrawal proceedings for a Lost River groundwater reservoir, Klamath County.



2501 SW First Avenue
PO Box 59
Portland, OR 97207
(503) 229-5400
TDD (503) 229-5459

WRD

October 13, 1993

Page 2

are interconnected to a significant degree. Because the proposed groundwater withdrawals appear to have a strong potential for reducing flows in Lost River and other area streams, ODFW harbors serious reservations regarding project impacts on streamflows and fish populations that depend on them.

Lost River sucker ("mullet") (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*) are indigenous to the Klamath Lake watershed. Recent surveys by BOR personnel² have verified that the latter species, at least, is reproducing in Lost River in the areas that would potentially be impacted by some or all of the proposed appropriations. Because these aging populations are showing very little or no annual juvenile recruitment over much of their historical range, Oregon and the federal government (USFWS) have listed them as "endangered" throughout their historic range. Numerous large and small unscreened BOR, PGE and irrigation diversions and marsh drainage for agriculture have profoundly modified the historic habitat base for these unique fish. Continued diminishment of surface water resources could easily push these species to extinction before recovery efforts can improve the situation.

Steve, I admittedly have not reviewed all of the subject applications. But because Lost River and its tributary creeks and springs contain 2 listed T&E species, ODFW is concerned that permitting these appropriations will exacerbate instream flow problems that already exist. There is considerable information on Lost River and short-nose suckers that indicates these species rely heavily on springs in the Lost River basin for spawning and some rearing. Several isolated and genetically distinct populations of suckers have already been lost, arguably due to dewatering or destruction of critical spring habitats.

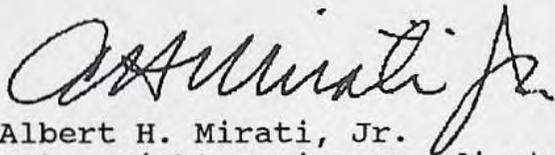
With the above in mind, ODFW hereby objects to the issuance of permits for any of the listed groundwater applications where there is reason to believe that groundwater withdrawals will deplete surface flows in this basin. We believe that development of these permits could have serious negative impacts on local fish populations, especially the 2 listed species of suckers, and would, therefore, be contrary to the public interest.

²Buettner, personal communication--(503) 883-6935, Klamath Falls

WRD
October 13, 1993
Page 3

Thank you for the opportunity to comment.

Sincerely,



Albert H. Mirati, Jr.
Water Right Review Coordinator

c. WaterWatch of Oregon (public information request)
Stephanie Burchfield
Fortune, Klamath Falls

FILE: G_WATER.TEC

WaterWatch

O F O R E G O N

RECEIVED

OCT 16 1993

WATER RESOURCES DEPT.
SALEM, OREGON

By FAX 378-8130 and Regular Mail

October 13, 1993

Oregon Water Resources Department
Water Rights Section
3850 Portland Road NE
Salem, Oregon 97310

Re: Objections to Technical Reports for: G-12567, Rookhuyzen
G-12617, Uecker; G-12618, Haskins & Co.; G-12642, Smith;
G-12732, Wiersma; G-12735, Teague; G-12746, Horsley;
G-12766, Hill; G-12772, Gibson; G-12777, Halousek; G-12811, Pope;
G-12814, Manning; G-12869, G-12507, Babson; G-13101, Livestock;
G-13041, Cheyne; G-13019, Wells; G-13013, Jeld-Wen; G-13012, Mendiboure;
G-13011, Hammerich; G-12994, Cheyne; G-12979, Unruh; G-12955, Bennett;
G-12935, Dark; G-12897, Gorden; G-12885, Williams; G-12877, G-12876, G-12874
Masten; G-13096, Stastny; G-13106, Ranch; G-12972, Ranch; G-12901, Smith;
G-12493, G-12494, Circle Five Ranch; G-12860, Weyerhaeuser
Applications for Irrigation in the Lost River Basin

Overview

The above referenced applications, when viewed as a whole, propose to pump approximately 131 cfs of ground water for irrigation use in the Lost River Basin (approximately 20 cfs is for primary irrigation use, approximately 36 cfs is for supplemental irrigation use and the remainder is for both primary and supplemental irrigation use). Most, if not all of these applicants are located within irrigation districts in the basin which receive water from federal reclamation projects. In many cases these applicants are looking to ground water as a source of water supply because existing surface water supplies whether from natural flow or Bureau of Reclamation (BOR) projects in the basin, are insufficient to meet irrigation needs. This surface water shortage is due, in part, to changes in reservoir operations made to protect habitat for Lost River and shortnose sucker species listed as endangered under both the federal and state Endangered Species Acts. The recent drought has aggravated the existing water supply problems.

Unfortunately for these applicants, there is growing evidence that the ground water resource is not capable of supporting existing ground water pumping, much less these proposed uses of water. The Water Resources Department's own analysis is that ground water pumping has exceeded the capacity of the ground water resource and that the pumping is having substantial effects on surface water flows in the Lost River. The Lost River system supports two endangered suckers and currently suffers from severe water quality problems. Any solution to these applicants water supply problems will not come from ignoring existing

water supply and environmental problems and issuing permits for these application, whether temporary or permanent. The solution must come from increasing efficiencies in water use and achieving a better balance in water use in the basin. It is for these and other reasons that WaterWatch of Oregon and the Oregon Natural Resources Council (ONRC) submit these objections pursuant to OAR 690-11-170.

The Ground Water Resource

Ground water in the Bonanza area is directly connected to the Lost River. WRC Agenda Item E, October 1, 1993 at 3 (hereinafter Agenda Item E). The most prominent ground water discharge is Bonanza Big Springs. Id. Ground water pumping from already existing permitted and exempt ground water uses in the area has been found to reduce Bonanza Springs discharges to the Lost River. Id. at 4. The applications referenced above propose to tap the very same aquifer that feeds Bonanza Springs. See Id., and Water Availability Report-Surface Water Application, filled out by Watermaster Sparks for G-12617, December of 1991. It is hard to imagine a more clear case of ground water/surface water interaction.

Existing ground water use has, at times, resulted in reversal of the hydraulic gradient of the aquifer flow such that the Lost River is actually drawn into the ground water through Bonanza Springs. Agenda Item E at 2. This has been identified by the Oregon Health Division as one of the causes of ground water contamination in the area. Id. See also Preliminary Assessment of Occurrence of Bacterial Contamination of Ground Water in Bonanza, Oregon, Nelson, Oregon Health Division at 2. This ground and surface water quality contamination problems is an ongoing chronic problems that has been aggravated in the past few years by the area wide drought. Oregon Department of Human Resources - Sanitary Survey Report, City of Bonanza.

The Surface Water Resource

Quantity

The flow in the Lost River arises from storage releases of BOR projects and groundwater discharges. Agenda Item E, at 3. According to the Water Resources Department, "much of the flow of the Lost River is due to storage releases." Id.

Quality

The Department of Environmental Quality (DEQ) has identified the Lost River from river mile 0 to 65 as water quality limited. See Oregon's 1992 Water Quality Status Assessment Report, 305(b) Report, A-79. From river mile 0 to river mile 5 the Lost River's water quality violates dissolved oxygen level standards. It is incapable of supporting the designated beneficial use of aquatic life during the summer months. This section of the river also violates water quality parameters for pH, nutrients and algae rendering only partially

able to support the listed beneficial uses of aquatic life and aesthetics during the summer months. From river mile 5 to 65 (the segment containing Bonanza Springs) the water quality violations are year round for dissolved oxygen and fecal coliform parameters such that the listed beneficial uses of aquatic life and water contact are not supported. Agricultural practices have been identified by DEQ as a possible cause of these water quality problems.

The Fish Resource

The Lost River supports two endangered suckers, the short nose and lost river suckers. The United States Fish and Wildlife Service (USFWS) Lost River (*Deltistes luxatus*) and Shortnose (*Chasmistes brevirostris*) Sucker Recovery Plan provides a good description of the history of these suckers:

Lost River and shortnose suckers are endemic to the upper Klamath Basin of Oregon and California (Map, page 11). Within their range, early records indicate that the Lost River and shortnose suckers were widespread and abundant. Cope (1884) noted that Upper Klamath Lake sustained "a great population of fishes" and was "more prolific in animal life" than any body of water known to him at that time. Gilbert (1898) noted that the Lost River sucker was "the most important food-fish of the Klamath Lake region." At that time, spring sucker runs "in incredible numbers" (Gilbert 1898) were relied upon as a food source by the Klamath and Modoc Indians and were taken by local settlers for both human consumption and livestock feed (Cope 1879, Coots 1965, Howe 1968). Sucker runs were so numerous that a cannery was established on the Lost River (Howe 1968) and several other commercial operations processed "enormous amounts" of suckers into oil, dried fish, and other products (Andreasen 1975).

Recovery Plan at 4. The decline of these suckers has been recognized since the mid-1960's, but the severity of the decline was not recognized until the 1980's. Recovery Plan Executive Summary.

In 1988 both species were listed under the federal Endangered Species Act as endangered. Executive summary. These species are also listed under the Oregon Endangered Species Act. By that time, entire stocks had already disappeared from sections of the Klamath Basin. *Id.* Both species of sucker are found in the Lost River. The Lost River and shortnose suckers are lake dwelling but spawn in tributary streams or springs. Recovery plan at 9, Executive Summary. Recent studies indicate that Bonanza Big Springs provides critical spawning habitat to at least some of these sucker populations. Recovery Plan at 9.

The USFWS has identified water diversion and water quality problems associated with agricultural practices as some of the causes of the decline of these species. *Id.* "Reduction

and degradation of lake and stream habitat in the Upper Klamath Basin has been proposed by the (USFW) Service as the major factor in the decline of both species." Executive. Summ. The recovery actions identified by the USFWS in the recovery plan for the suckers include improving habitat conditions by, among other things, developing and achieving water quality and water quality goals, improving fish habitat and improving land management practices. Executive summary. To date, no streamflow goals have been established for suckers in the Lost River.¹

◆ **The Technical Reports are Defective.**

The technical reports fail to include many of the elements and evaluations required in OAR 690-11-160(1). The following are specific areas of deficiency:

- The reports fail to assess whether the proposed uses are restricted by statute. OAR 690-11-160(1)(b).
- The reports fail to assess the proposed uses with respect to conditions on other permits from the same source or the same type of use. OAR 690-11-160(1)(c).
- The reports fail to assess the uses with respect to all applicable administrative rules. OAR 690-11-160. For example, the reports do not assess the uses with respect to the applicable basin plan.
- The reports fail to evaluate potential conflicts with existing rights. OAR 690-11-160(1)(e). The information outlined in the section entitled CONFLICTS WITH OTHER WATER RIGHTS does not meet this requirement. The scope of the information is narrowly focused on other rights from the same point of diversion and for lands described in the applications. The rules are not that limited. The technical report must evaluate the potential for conflict with existing rights -- rights that use the same source of water and rights that use other sources that may be affected by the proposed withdrawals.
- The reports fail to evaluate water availability from the proposed source pursuant to OAR 690-11-160(f).
- The reports do not evaluate whether the amount requested is necessary to meet the proposed use. OAR 690-11-160(1)(g).

¹ The Oregon Department of Fish and Wildlife has developed recommended flows for trout habitat. See attachment 1. However, these may not be appropriate for suckers needs.

- Finally, there is no evaluation of land use compatibility. OAR 690-11-160(1)(h).

◆ **The Uses As Proposed are Not in the Public Interest.**

The proposed uses fail to pass the public interest considerations in ORS 537.525, 537.620 and 537.170 and the policies of Oregon's laws calling for the protection of native and anadromous fish, ORS 496.430 et sec. *See also*, OAR 690-11-195(3)(b), (d), (4)(a), (4)(b), (4)(c)(A), (4)(d), (4)(e), (4)(f). The State holds the waters from all sources of supply, in trust for the public. ORS 536.310(1), ORS 537.110, ORS 537.334(2), ORS 537.535, OAR 690-410-010(1) and OAR 690-410-070(1). Use of Oregon's ground water can generally only allowed by permit or certificate. The Ground Water Act of 1955 (ORS 537.505 to 537.795) requires the Commission to deny permit requests unless it can ensure that the "public welfare, safety and health" are protected. ORS 537.620. Thus, when evaluating the above referenced applications the Commission has a duty to ensure that the uses will not harm the quality of the ground and surface waters (*See* ORS 468B.015(1), 468B.015(2), (4) OAR 690-410-070(2)(e)), and instream flow needs for fish populations (ORS 496.430, OAR 690-410-070(2)(h)). *See also* OAR 690-11-195(4)(c), (d) and (h).

The state and federal Endangered Species Acts also place a burden on the Commission. Under the state Act, the Commission is required to consult with the Oregon Department of Fish and Wildlife to ensure that any action taken by the Commission is consistent with ODFW programs to conserve the species or, if no plan is in place, that the act will not "reduce the likelihood of the survival or recovery of the threatened species of endangered species." ORS 496.182(2). The federal Act prohibits the "taking" of endangered species. 16 USCA § 1538(a)(1)(B). Taking is defined in Section (3)(18) includes "harm" as well as killing and capturing. 16 USCA § 1532 (19). The regulatory definition of "harm" includes "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 CFR § 17.3. Thus it is clear that actions by the Commission can rise to the level of an unpermitted taking of a species if habitat destruction or modification harms a listed species. *See Palilia v. Hawaii Department of Land and Natural Resources*, 649 F.Supp. 1070 (D. Hawaii 1986), *aff'd*, 852 F.2d 1106 (9th Cir. 1988). Significantly, the above reference *Palilia* case, the oft-cited case on habitat alteration rising to the level of take involved a state agency allowing goats to destroy the food source of an endangered bird. Taking water from fish is at least as clear a causal connection.

Listing under the state and federal endangered species act is a sign not only of the health of a particular species but also a warning signal for the health of the human environment. It has been a goal of Governor Roberts and the state not to allow resource conflicts to reach the level where federal intervention removes the state control. The

proposed approval of these applications will inevitably lead to these issues being resolved in Washington D.C. not in Oregon.

1. The Water Availability Analysis is Defective

The analysis is defective for the following reasons:

- There was no analysis of surface water availability. The technical reports did not have any analysis of the status of water availability in the Lost River. As of September 29 there was no such analysis in any of the above referenced Department files. Since the uses in these applications will substantially interfere with Lost River flows, a surface water availability analysis is crucial to the water availability analysis for these ground water permits.

In addition, any such analysis must adequately consider rights-of-record. At any given moment there may be valid, but unexercised, water rights in a basin. Water users may at any time use the water to which they are legally entitled up to the limit of their rights-of-record. Failure to account for future increases in water use pursuant to rights-of-record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.

- The analysis appears to ignore existing and possible future uses of ground water that are exempt from Oregon's permitting requirements. We understand that there is no municipal water supply system in the City of Bonanza and most if not all residential uses of water in the City is diverted through exempt ground water wells. Thus, existing and future exempt wells have a cumulative impact on the resource and should be factored into the water availability analysis.

- The water availability analysis for surface flows in the Lost River must differentiate between natural flows and regulated flows (water released from upstream storage). There are many storage facilities in the Lost River system which contribute a majority of the water in the Lost River System. The flow releases from these federal projects are likely to be going through alterations in response to endangered species habitat concerns in the reservoirs. This will mean that flow regimes in the Lost River will be changing. If these proposed ground water uses in these applications essentially draw from surface waters then they may be using stored water. Failure to differentiate between natural flows and regulated flows in the analysis overestimates the amount of natural flow available for use, leads to unrealistic expectations on the part of the applicant and will result in the over-allocation of the resource. This is

contrary to the statewide Water Allocation Policy. OAR 690-400-010. As a legal and policy matter, the Department must differentiate between stored water and natural flow in its water availability analysis for new permits and in its regulation of existing permits.

- The analysis fails to take into account flows needed to protect endangered fish populations in the Lost River. This is contrary to the statewide allocation and instream flow policies which require protection of instream flow needs when considering applications for out-of-stream uses. OAR 690-410-070(2) and 690-410-030.

2. **The proposed conditions are not sufficient to protect the public's interest in the resource.**

Temporary Permits

The technical reports propose to issue temporary permits for these proposed uses that will only be issued if certain conditions are met. WaterWatch and ONRC object to the use of temporary permits for the following reasons:

- The issuance of temporary permits does **nothing** to halt the further degradation of the resources in the Lost River. The fact that the water use is "temporary" ignores the fact that the resource, **without** these new uses of water, is already in critical condition.
- The permit only allows these permittees to be shut off if the use harms existing senior water right holders. There are no water rights, senior or otherwise, that protect instream values in this river system. Thus, these conditions do not allow the Commission to regulate these new permittees to protect instream values such as water quality or endangered species.
- There is no public notice or opportunity to comment on permit renewals.
- There are no clear standards for renewal. The condition allows renewal of the temporary permits if the surface flows are not "significantly diminished"; requires a "plan" for alternative long-term water supply; if ground water levels have not "excessively declined"; and water level reports have been "timely submitted"².

² If temporary permits were issued, the permittee should be required to show that they complied with measurement and reporting requirements relating to water use and to periodic water level reports.

Other Permit Conditions

In addition, the proposed permit conditions relating to measurement and reporting of water use would not be sufficient if by some stretch of the imagination these applications were in the public interest.

3. **The proposed uses are not in the public interest because they will deplete and adversely affect quantity and quality of water needed to meet the needs for endangered species uses of the Lost River.**

The proposed uses would deplete spring flows needed for endangered suckers in the Lost River. Adequate quantity and quality of water needed for migration and spawning are critical for the survival and restoration of sucker species in the basin. Reduced streamflows caused by depletion of springs by groundwater pumping contribute to higher water temperatures, reduced water quality and loss of aquatic habitat. Low flows impede passage and rearing in the mainstem Lost River. In addition, this water is proposed to be diverted for agricultural uses which have identified by DEQ as causing water quality problems. In addition, agricultural practices in the area have been identified by the USFWS as one of the causes of decline of the endangered suckers. The continued issuance of water use permits, whether temporary or permanent, in the face of the duty to protect critical habitat for threatened and endangered fish species, is contrary to the requirements of state and federal law.

4. **The proposed uses are contrary to Oregon policy.**

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. Instead of spending valuable state resources processing these applications, the state should be working to protect instream flows in this basin through the adoption of instream water rights. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a). The Commission's review relating to instream needs is not limited to existing instream water rights or applications for water rights, it must also consider instream flow needs that are not specifically protected. OAR 690-410-070(2)(h). No such consideration has been done.

Instream water rights are an essential tool that must be utilized if Oregon is to achieve equitable allocation of water. Instream water rights not only protect unallocated waters instream, they serve as a management objective for obtaining the amount of instream flows needed to support public uses. OAR 690-77-015(2). The presence of endangered sucker

populations in the Klamath River system makes the protection of instream flows even more important for achieving a balance in this basin. The establishment and protection of instream water rights will help to achieve a balanced allocation of water between public instream and other uses in the basin and throughout the state.

Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Protection of streamflows is also necessary in order to carry out the state policy of restoring native fish stocks. Oregon law states that "it is declared to be a goal of the people of the State of Oregon to restore native stocks of salmon and trout to their historic levels of abundance." ORS 496.435.

Oregon statutes and rules also call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). Proposed condition #8 does little to further these policies. Given the critical status of fish populations in the basin, the water quality problems and the fact that the proposed use is the type of use known to cause these existing problems, it is imperative that any use allowed be held to a strict efficiency standard prior to issuance of any new permits.

Oregon's statewide storage policy recognizes that storage is an "integral part" of the State's "strategy to enhance the public" benefits resulting from instream uses of Oregon's waters. OAR 690-410-080(1). The policy also recognizes that "(s)orage can provide increased water management flexibility and control." *Id.* One of the principles of the policy is to require that storage projects be managed in a way that will "protect and enhance the public health, safety and welfare, and the state's natural resources." OAR 690-410-080(2)(d). The Department's historic failure to manage stored water once it is released from storage and to distinguish between natural and regulated flows is not consistent with these policy mandates. Until the state begins to differentiate between natural and stored, and then begins to manage the resource consistent with that management strategy it will be ill-equipped to address the management and resource protection issues that it faces in the Klamath River Basin.³

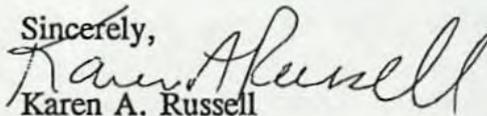
³ This failure also undermines efforts of the BOR and other federal agencies to obtain water needed for fish in the Lost River basin. The endangered suckers rely both on lakes and on stream and spring habitat. This means the BOR and the state will have to develop a management strategy for the suckers that protect certain reservoir levels and instream flows. Unless and until the Department differentiates between natural flow and stored water, the Department is creating yet another situation where a person who does not have a rights to use stored water is diverting ground water which affects stored water flows - potentially the stored water that the public is paying to have released into the river for fish needs. This is

Finally, the Commission's statewide policy on ground water management states that "(g)roundwater and surface water shall be managed conjunctively where to do so will protect the water resources, existing water rights, and the public interest." OAR 690-410-010(2)(a). The Policy also requires that "(i)nterference between groundwater uses and competing ground and surface water uses shall be prevented and/or controlled to protect the water resource and existing rights." OAR 690-410-010(1). The policy recognizes the state's duty to prevent ground water overdraft or contamination in order to avoid environmental damage. Id. For the reasons outlined above, the proposed issuance of these pending applications are not consistent with any of the parts of this statewide policy.

◆ Conclusion

We are open to discussion with the Department and the applicants on all of the issues raised in this objection letter. However, in order to protect the public's interest in the resource, and the endangered fish species which rely on this resource, these and other applications for permits for water from the Lost River Basin should not be considered until sufficient instream flows are determined and guaranteed throughout the basin. Until these flows are determined, the Department has no way to ensure that new uses proposed in the system will not harm the public interest. It is bad public policy to issue water rights based upon limited information when there is clearly a biological crisis in this critical river system.

Sincerely,



Karen A. Russell
Assistant Director
WaterWatch

Wendel Wood
ONRC

encl.

not only contrary to Oregon water law, it undermines the efforts of federal, state, and local governments, tribal governments and concerned citizens who have been working to protect one of Oregon's, and the nations, most precious resources.

Attachment 1

OREGON DEPARTMENT OF FISH & WILDLIFE
MINIMUM FLOW RECOMMENDATIONS FOR LOST RIVER

PERIOD	MERRILL	BONANZA	RM 64.0
January	30	25	15
February	30	30	15
March	30	30	15
April	50	35	20
May	50	35	20
June	50	35	20
July	20	10	10
August	15	10	5
September	15	10	5
October	15	10	5
November	15	10	5
December	20	15	10

Flow recommendations in cubic feet per second.
Estimates for Trout habitat.



United States Department of the Interior

BUREAU OF RECLAMATION

MID-PACIFIC REGION

KLAMATH PROJECT

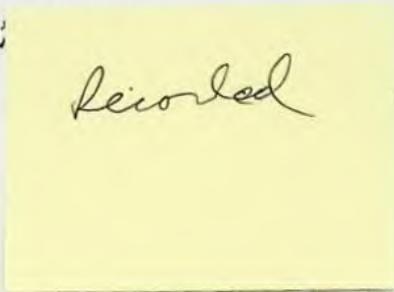
6600 WASHBURN WAY

KLAMATH FALLS, OREGON 97603-9365



IN REPLY
REFER TO:

OCT 12 1993



CERTIFIED RETURN RECEIPT REQUESTED

KO-400
WTR-4.10

Oregon Water Resources Department
3850 Portland Road NE
Salem OR 97310

Subject: Protest of Application for Groundwater Use in the Bonanza,
Oregon Area (Water Rights Protest)

We have recently become aware of Agenda Item E for the October 1, 1993, meeting of the Water Resources Commission. The information presented in this agenda item briefing indicates a strong possibility that a connection exists between groundwater and surface water supplies in the Bonanza, Oregon area. A follow-up conversation with Fred Listner, Oregon Department of Water Resources, indicated that a technical evaluation supporting the connection between groundwater and surface water will be forthcoming in the near future.

The U.S. Bureau of Reclamation (Reclamation) depends on the flows from Bonanza Springs to satisfy contractual agreements with Horsefly Irrigation District and to satisfy pre-project rights to the use of Lost River water. The Lost River watershed is over-appropriated and it has been the policy of Reclamation to protest all surface water applications that would require water use during the irrigation season. Accordingly, in January 1991, the Klamath Project requested the Water Resources Commission close the Lost River to further appropriations. To our knowledge, this was not acted upon by the Commission.

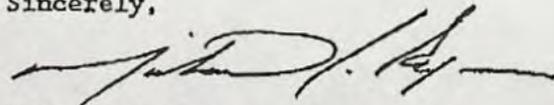
Until a method is developed by the State of Oregon to adequately determine the extent of depletion of the springs in the Bonanza area caused by groundwater pumping during the irrigation season, we must object to the granting of any non-domestic groundwater permits in the Bonanza area. As you are aware, any depletions would have to be replaced with stored water from Reclamation reservoirs located above Bonanza (Gerber and Clear Lake Reservoirs).

Specifically, the following applications are being objected to:

Application Number	Name of Applicant	Address	Town	State
G 12493	Circle Five Ranch Inc.	45850 Gerber Road	Bonanza	OR
G 12494	Circle Five Ranch Inc.	45850 Gerber Road	Bonanza	OR
G 12507	Babson, Denis G	1450 Waverly Street	Palo Alto	CA
G 12567	Rookhuyzen, Loyal	14270 Hill Road	Klamath Falls	OR
G 12617	Vecker, Susan	230 California STE 410	San Francisco	CA
G 12618	Haskins and Co. Inc.	Route 1, Box 796	Bonanza	OR
G 12642	Smith, Richard A	10166 E Langell Valley R	Bonanza	OR
G 12644	Lost River Ranch	25400 N. Poe Valley Road	Klamath Falls	OR
G 12732	Wiersma, Earl & Pam	P O Box 177	Bonanza	OR
G 12735	Teague, George & Sara	889 Old Midland Road	Klamath Falls	OR
G 12746	Horsley, Donald	P O Box 8	Bonanza	OR
G 12766	Hill, William V	3286 E Langell Valley R	Bonanza	OR
G 12772	Gibson, Carl	10440 W Langell Valley R	Bonanza	OR
G 12777	Halousek, Larry	P O Box 258	Malin	OR
G 12811	Pope, Lynn	21660 Pope Road	Merrill	OR
G 12814	Manning, Donald R.	P O Box 365	Bonanza	OR
G 12860	Weyerhaeuser Co.	P O Box 9	Klamath Falls	OR
G 12869	Babson, Denis G	1450 Waverly Street	Palo Alto	CA
G 12874	Masten, Kenneth	Route 2, Box 21	Bonanza	OR
G 12876	Masten, Charles	Route 2, Box 22	Bonanza	OR
G 12877	Masten, S C	P O Box 156	Bonanza	OR
G 12885	Williams, Gary	17000 W Langell Valley R	Bonanza	OR
G 12897	Gorden, Kenneth	25638 Highway 70	Bonanza	OR
G 12901	Smith, Richard A	10166 E Langell Valley R	Bonanza	OR
G 12935	Dark, John	28289 Pickett Road	Malin	OR
G 12955	Bennett, Bradley	P O Box 216	Bonanza	OR
G 12972	Balin Ranch	13600 Homedale Road	Klamath Falls	OR
G 12979	Unruh, Clark	30403 Pickett Road	Malin	OR
G 12994	Cheyne, Charles	10057 E Langell Valley R	Bonanza	OR
G 13011	Hammerich, WE	18419 W Langell Valley R	Bonanza	OR
G 13012	Mendiboure, Winifred	P O Box 23	Malin	OR
G 13013	Jeld-Wen Inc.	P O Box 1883	Klamath Falls	OR
G 13019	Wells Farms Inc.	22700 Schaupp Road	Klamath Falls	OR
G 13041	Cheyne, Robert & Helen	9682 Greenbrier Drive	Klamath Falls	OR
G 13096	Stastny, Edwin Jr.	32121 Highway 50	Malin	OR
G 13101	Barrett Livestock	9747 E Langell Valley R	Bonanza	OR
G 13106	Grohs Ranch	21010 W Langell Valley R	Bonanza	OR

If you have any questions, please contact Jim Bryant at (503) 883-6935.

Sincerely,



Michael J. Ryan
Project Manager

John
2

Specifically, the following applications are being objected to:

Application Number	Name of Applicant	Address	Town	State
G 12493	Circle Five Ranch Inc.	45850 Gerber Road	Bonanza	OR
G 12494	Circle Five Ranch Inc.	45850 Gerber Road	Bonanza	OR
G 12507	Babson, Denis G	1450 Waverly Street	Palo Alto	CA
G 12567	Rookhuyzen, Loyal	14270 Hill Road	Klamath Falls	OR
G 12617	Uecker, Susan	230 California STE 410	San Francisco	CA
G 12618	Haskins and Co. Inc.	Route 1, Box 796	Bonanza	OR
G 12642	Smith, Richard A	10166 E Langell Valley R	Bonanza	OR
G 12644	Lost River Ranch	25400 N. Poe Valley Road	Klamath Falls	OR
G 12732	Wiersma, Earl & Pam	P O Box 177	Bonanza	OR
G 12735	Teague, George & Sara	889 Old Midland Road	Klamath Falls	OR
G 12746	Hersley, Donald	P O Box 8	Bonanza	OR
G 12766	Hill, William V	3286 E Langell Valley R	Bonanza	OR
G 12772	Gibson, Carl	10440 W Langell Valley R	Bonanza	OR
G 12777	Halousek, Larry	P O Box 258	Malin	OR
G 12811	Pope, Lynn	21660 Pope Road	Merrill	Or
G 12814	Manning, Donald R.	P O Box 365	Bonanza	OR
G 12860	Weyerhaeuser Co.	P O Box 9	Klamath Falls	OR
G 12869	Babson, Denis G	1450 Waverly Street	Palo Alto	CA
G 12874	Masten, Kenneth	Route 2, Box 21	Bonanza	OR
G 12876	Masten, Charles	Route 2, Box 22	Bonanza	OR
G 12877	Masten, S C	P O Box 156	Bonanza	OR
G 12885	Williams, Gary	17000 W Langell Valley R	Bonanza	OR
G 12897	Gorden, Kenneth	25638 Highway 70	Bonanza	OR
G 12901	Smith, Richard A	10166 E Langell Valley R	Bonanza	OR
G 12935	Dark, John	28289 Pickett Road	Malin	OR
G 12955	Bennett, Bradley	P O Box 216	Bonanza	OR
G 12972	Balin Ranch	13600 Homedale Road	Klamath Falls	OR
G 12979	Unruh, Clark	30403 Pickett Road	Malin	OR
G 12994	Cheyne, Charles	10057 E Langell Valley R	Bonanza	OR
G 13011	Hammerich, WE	18419 W Langell Valley R	Bonanza	OR
G 13012	Mendiboure, Winifred	P O Box 23	Malin	OR
G 13013	Jeld-Wen Inc.	P O Box 1883	Klamath Falls	OR
G 13019	Wells Farms Inc.	22700 Schaupp Road	Klamath Falls	OR
G 13041	Cheyne, Robert & Helen	9682 Greenbrier Drive	Klamath Falls	OR
G 13096	Stastny, Edwin Jr.	32121 Highway 50	Malin	OR
G 13101	Barrett Livestock	9747 E Langell Valley R	Bonanza	OR
G 13106	Grohs Ranch	21010 W Langell Valley R	Bonanza	OR

If you have any questions, please contact Jim Bryant at (503) 883-6935.

Sincerely,



Michael J. Ryan
Project Manager



IN REPLY
REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION

MID-PACIFIC REGION
KLAMATH PROJECT
6600 WASHBURN WAY
KLAMATH FALLS, OREGON 97603-9365



RECEIVED

OCT 12 1993

OCT 14 1993

WATER RESOURCES DEPT.
SALEM, OREGON

CERTIFIED RETURN RECEIPT REQUESTED

KO-400
WTR-4.10

Oregon Water Resources Department
3850 Portland Road NE
Salem OR 97310

Subject: Protest of Application for Groundwater Use in the Bonanza,
Oregon Area (Water Rights Protest)

We have recently become aware of Agenda Item E for the October 1, 1993, meeting of the Water Resources Commission. The information presented in this agenda item briefing indicates a strong possibility that a connection exists between groundwater and surface water supplies in the Bonanza, Oregon area. A follow-up conversation with Fred Listner, Oregon Department of Water Resources, indicated that a technical evaluation supporting the connection between groundwater and surface water will be forthcoming in the near future.

The U.S. Bureau of Reclamation (Reclamation) depends on the flows from Bonanza Springs to satisfy contractual agreements with Horsefly Irrigation District and to satisfy pre-project rights to the use of Lost River water. The Lost River watershed is over-appropriated and it has been the policy of Reclamation to protest all surface water applications that would require water use during the irrigation season. Accordingly, in January 1991, the Klamath Project requested the Water Resources Commission close the Lost River to further appropriations. To our knowledge, this was not acted upon by the Commission.

Until a method is developed by the State of Oregon to adequately determine the extent of depletion of the springs in the Bonanza area caused by groundwater pumping during the irrigation season, we must object to the granting of any non-domestic groundwater permits in the Bonanza area. As you are aware, any depletions would have to be replaced with stored water from Reclamation reservoirs located above Bonanza (Gerber and Clear Lake Reservoirs).

Fax Transmittal Memo 7672

From: Steve Brown
Company: WRD

No. of Pages 3

Today's Date 10/13

Time 3:15 P

From

al minutes
ODFW

Company

Location

Dept. Charge

Fax #

Telephone #

Original
Disposition: Destroy Return Call for pickup

Oregon

DEPARTMENT OF

FISH AND

WILDLIFE

By FAX and regular mail

October 13, 1993

Steve Brown
Water Rights Section
Water Resources Department
3850 Portland Rd., NE
Salem, OR 97310

RE: Groundwater Application #s 12567, 12617, 12618, 12642,
12732, 12735, 12746, 12766, 12772, 12777, 12711,
12814, 12869, 13101, 13041, 13019, 13013, 13012,
13011, 12994, 12979, 12955, 12935, 12897, 12885,
12877, 12507, 12876, 12874, 13096, 13106, 12972,
12901, 12493, 12494, 12860, and 12644; Reports of
Technical Review

Generally, ODFW does not review or comment on applications to use groundwater. This decision to not review is based on the following:

- ▶ A belief that groundwater withdrawals from confined aquifers generally have little or no direct short-term impacts on surface flows, and
- ▶ Groundwater withdrawals do not present fish passage or screening problems.

However, in cases where groundwater has been shown to have a significant hydraulic connection with surface water, we are concerned that groundwater withdrawals will impact instream flows. This appears to be the case with the 37 subject applications in the Lost River basin.

According to a WRD staff report presented to WRC June 5, 1992, there is considerable regulation and some evidence

instream flows. This appears to be the case with the 31
subject applications in the Lost River basin.

According to a WRD staff report presented to WRC June 5,
1992,¹ there is considerable speculation and some evidence
that ground water and surface water in the Lost River area

¹Agenda Item L; Request for authorization to initiate
withdrawal proceedings for a Lost River groundwater reservoir,
Klamath County.



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WRD

October 13, 1993

Page 2

are interconnected to a significant degree. Because the proposed groundwater withdrawals appear to have a strong potential for reducing flows in Lost River and other area streams, ODFW harbors serious reservations regarding project impacts on streamflows and fish populations that depend on them.

Lost River sucker ("mullet") (*Deltistes luxatus*) and shortnose sucker (*Chasmistes brevirostris*) are indigenous to the Klamath Lake watershed. Recent surveys by BOR personnel² have verified that the latter species, at least, is reproducing in Lost River in the areas that would potentially be impacted by some or all of the proposed appropriations. Because these aging populations are showing very little or no annual juvenile recruitment over much of their historical range, Oregon and the federal government (USFWS) have listed them as "endangered" throughout their historic range. Numerous large and small unscreened BOR, PGE and irrigation diversions and marsh drainage for agriculture have profoundly modified the historic habitat base for these unique fish. Continued diminishment of surface water resources could easily push these species to extinction before recovery efforts can improve the situation.

Steve, I admittedly have not reviewed all of the subject applications. But because Lost River and its tributary creeks and springs contain 2 listed T&E species, ODFW is concerned that permitting these appropriations will exacerbate instream flow problems that already exist. There is considerable information on Lost River and short-nose suckers that indicates these species rely heavily on springs in the Lost River basin for spawning and some rearing. Several isolated and genetically distinct populations of suckers have already been lost, arguably due to dewatering or destruction of critical spring habitats.

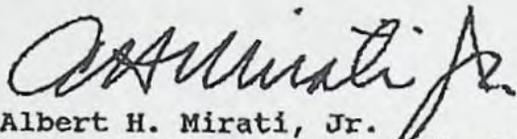
With the above in mind, ODFW hereby objects to the issuance of permits for any of the listed groundwater applications where there is reason to believe that groundwater withdrawals will deplete surface flows in this basin. We believe that development of these permits could have serious negative impacts on local fish populations, especially the 2 listed species of suckers, and would, therefore, be contrary to the public interest.

²Buettner, personal communication--(503) 883-6935, Klamath Falls

WRD
October 13, 1993
Page 3

Thank you for the opportunity to comment.

Sincerely,



Albert H. Mirati, Jr.
Water Right Review Coordinator

c. WaterWatch of Oregon (public information request)
Stephanie Burchfield
Fortune, Klamath Falls

FILE: G_WATIR.TEC

WaterWatch

O F O R E G O N

By FAX 378-8130 and Regular Mail

October 13, 1993

Oregon Water Resources Department
Water Rights Section
3850 Portland Road NE
Salem, Oregon 97310

Re: Objections to Technical Reports for: G-12567, Rookhuyzen
G-12617, Uecker; G-12618, Haskins & Co.; G-12642, Smith;
G-12732, Wiersma; G-12735, Teague; G-12746, Horsley;
G-12766, Hill; G-12772, Gibson; G-12777, Halousek; G-12811, Pope;
G-12814, Manning; G-12869, G-12507, Babson; G-13101, Livestock;
G-13041, Cheyne; G-13019, Wells; G-13013, Jeld-Wen; G-13012, Mendiboure;
G-13011, Hammerich; G-12994, Cheyne; G-12979, Unruh; G-12955, Bennett;
G-12935, Dark; G-12897, Gorden; G-12885, Williams; G-12877, G-12876, G-12874
Masten; G-13096, Stastny; G-13106, Ranch; G-12972, Ranch; G-12901, Smith;
G-12493, G-12494, Circle Five Ranch; G-12860, Weyerhaeuser
Applications for Irrigation in the Lost River Basin

Overview

The above referenced applications, when viewed as a whole, propose to pump approximately 131 cfs of ground water for irrigation use in the Lost River Basin (approximately 20 cfs is for primary irrigation use, approximately 36 cfs is for supplemental irrigation use and the remainder is for both primary and supplemental irrigation use). Most, if not all of these applicants are located within irrigation districts in the basin which receive water from federal reclamation projects. In many cases these applicants are looking to ground water as a source of water supply because existing surface water supplies whether from natural flow or Bureau of Reclamation (BOR) projects in the basin, are insufficient to meet irrigation needs. This surface water shortage is due, in part, to changes in reservoir operations made to protect habitat for Lost River and shortnose sucker species listed as endangered under both the federal and state Endangered Species Acts. The recent drought has aggravated the existing water supply problems.

Unfortunately for these applicants, there is growing evidence that the ground water resource is not capable of supporting existing ground water pumping, much less these proposed uses of water. The Water Resources Department's own analysis is that ground water pumping has exceeded the capacity of the ground water resource and that the pumping is having substantial effects on surface water flows in the Lost River. The Lost River system supports two endangered suckers and currently suffers from severe water quality problems. Any solution to these applicants water supply problems will not come from ignoring existing

water supply and environmental problems and issuing permits for these application, whether temporary or permanent. The solution must come from increasing efficiencies in water use and achieving a better balance in water use in the basin. It is for these and other reasons that WaterWatch of Oregon and the Oregon Natural Resources Council (ONRC) submit these objections pursuant to OAR 690-11-170.

The Ground Water Resource

Ground water in the Bonanza area is directly connected to the Lost River. WRC Agenda Item E, October 1, 1993 at 3 (hereinafter Agenda Item E). The most prominent ground water discharge is Bonanza Big Springs. *Id.* Ground water pumping from already existing permitted and exempt ground water uses in the area has been found to reduce Bonanza Springs discharges to the Lost River. *Id.* at 4. The applications referenced above propose to tap the very same aquifer that feeds Bonanza Springs. *See Id.*, and Water Availability Report-Surface Water Application, filled out by Watermaster Sparks for G-12617, December of 1991. It is hard to imagine a more clear case of ground water/surface water interaction.

Existing ground water use has, at times, resulted in reversal of the hydraulic gradient of the aquifer flow such that the Lost River is actually drawn into the ground water through Bonanza Springs. Agenda Item E at 2. This has been identified by the Oregon Health Division as one of the causes of ground water contamination in the area. *Id.* *See also* Preliminary Assessment of Occurrence of Bacterial Contamination of Ground Water in Bonanza, Oregon, Nelson, Oregon Health Division at 2. This ground and surface water quality contamination problems is an ongoing chronic problems that has been aggravated in the past few years by the area wide drought. Oregon Department of Human Resources - Sanitary Survey Report, City of Bonanza.

The Surface Water Resource

Quantity

The flow in the Lost River arises from storage releases of BOR projects and groundwater discharges. Agenda Item E, at 3. According to the Water Resources Department, "much of the flow of the Lost River is due to storage releases." *Id.*

Quality

The Department of Environmental Quality (DEQ) has identified the Lost River from river mile 0 to 65 as water quality limited. *See* Oregon's 1992 Water Quality Status Assessment Report, 305(b) Report, A-79. From river mile 0 to river mile 5 the Lost River's water quality violates dissolved oxygen level standards. It is incapable of supporting the designated beneficial use of aquatic life during the summer months. This section of the river also violates water quality parameters for pH, nutrients and algae rendering only partially

able to support the listed beneficial uses of aquatic life and aesthetics during the summer months. From river mile 5 to 65 (the segment containing Bonanza Springs) the water quality violations are year round for dissolved oxygen and fecal coliform parameters such that the listed beneficial uses of aquatic life and water contact are not supported. Agricultural practices have been identified by DEQ as a possible cause of these water quality problems.

The Fish Resource

The Lost River supports two endangered suckers, the short nose and lost river suckers. The United States Fish and Wildlife Service (USFWS) Lost River (*Deltistes luxatus*) and Shortnose (*Chasmistes brevirostris*) Sucker Recovery Plan provides a good description of the history of these suckers:

Lost River and shortnose suckers are endemic to the upper Klamath Basin of Oregon and California (Map, page 11). Within their range, early records indicate that the Lost River and shortnose suckers were widespread and abundant. Cope (1884) noted that Upper Klamath Lake sustained "a great population of fishes" and was "more prolific in animal life" than any body of water known to him at that time. Gilbert (1898) noted that the Lost River sucker was "the most important food-fish of the Klamath Lake region." At that time, spring sucker runs "in incredible numbers" (Gilbert 1898) were relied upon as a food source by the Klamath and Modoc Indians and were taken by local settlers for both human consumption and livestock feed (Cope 1879, Coots 1965, Howe 1968). Sucker runs were so numerous that a cannery was established on the Lost River (Howe 1968) and several other commercial operations processed "enormous amounts" of suckers into oil, dried fish, and other products (Andreasen 1975).

Recovery Plan at 4. The decline of these suckers has been recognized since the mid-1960's, but the severity of the decline was not recognized until the 1980's. Recovery Plan Executive Summary.

In 1988 both species were listed under the federal Endangered Species Act as endangered. Executive summary. These species are also listed under the Oregon Endangered Species Act. By that time, entire stocks had already disappeared from sections of the Klamath Basin. *Id.* Both species of sucker are found in the Lost River. The Lost River and shortnose suckers are lake dwelling but spawn in tributary streams or springs. Recovery plan at 9, Executive Summary. Recent studies indicate that Bonanza Big Springs provides critical spawning habitat to at least some of these sucker populations. Recovery Plan at 9.

The USFWS has identified water diversion and water quality problems associated with agricultural practices as some of the causes of the decline of these species. *Id.* "Reduction

and degradation of lake and stream habitat in the Upper Klamath Basin has been proposed by the (USFW) Service as the major factor in the decline of both species." Executive. Summ. The recovery actions identified by the USFWS in the recovery plan for the suckers include improving habitat conditions by, among other things, developing and achieving water quality and water quality goals, improving fish habitat and improving land management practices. Executive summary. To date, no streamflow goals have been established for suckers in the Lost River.¹

◆ **The Technical Reports are Defective.**

The technical reports fail to include many of the elements and evaluations required in OAR 690-11-160(1). The following are specific areas of deficiency:

- The reports fail to assess whether the proposed uses are restricted by statute. OAR 690-11-160(1)(b).
- The reports fail to assess the proposed uses with respect to conditions on other permits from the same source or the same type of use. OAR 690-11-160(1)(c).
- The reports fail to assess the uses with respect to all applicable administrative rules. OAR 690-11-160. For example, the reports do not assess the uses with respect to the applicable basin plan.
- The reports fail to evaluate potential conflicts with existing rights. OAR 690-11-160(1)(e). The information outlined in the section entitled CONFLICTS WITH OTHER WATER RIGHTS does not meet this requirement. The scope of the information is narrowly focused on other rights from the same point of diversion and for lands described in the applications. The rules are not that limited. The technical report must evaluate the potential for conflict with existing rights -- rights that use the same source of water and rights that use other sources that may be affected by the proposed withdrawals.
- The reports fail to evaluate water availability from the proposed source pursuant to OAR 690-11-160(f).
- The reports do not evaluate whether the amount requested is necessary to meet the proposed use. OAR 690-11-160(1)(g).

¹ The Oregon Department of Fish and Wildlife has developed recommended flows for trout habitat. See attachment 1. However, these may not be appropriate for suckers needs.

- Finally, there is no evaluation of land use compatibility. OAR 690-11-160(1)(h).

◆ **The Uses As Proposed are Not in the Public Interest.**

The proposed uses fail to pass the public interest considerations in ORS 537.525, 537.620 and 537.170 and the policies of Oregon's laws calling for the protection of native and anadromous fish, ORS 496.430 et sec. See also, OAR 690-11-195(3)(b), (d), (4)(a), (4)(b), (4)(c)(A), (4)(d), (4)(e), (4)(f). The State holds the waters from all sources of supply, in trust for the public. ORS 536.310(1), ORS 537.110, ORS 537.334(2), ORS 537.535, OAR 690-410-010(1) and OAR 690-410-070(1). Use of Oregon's ground water can generally only allowed by permit or certificate. The Ground Water Act of 1955 (ORS 537.505 to 537.795) requires the Commission to deny permit requests unless it can ensure that the "public welfare, safety and health" are protected. ORS 537.620. Thus, when evaluating the above referenced applications the Commission has a duty to ensure that the uses will not harm the quality of the ground and surface waters (See ORS 468B.015(1), 468B.015(2), (4) OAR 690-410-070(2)(e)), and instream flow needs for fish populations (ORS 496.430, OAR 690-410-070(2)(h)). See also OAR 690-11-195(4)(c), (d) and (h).

The state and federal Endangered Species Acts also place a burden on the Commission. Under the state Act, the Commission is required to consult with the Oregon Department of Fish and Wildlife to ensure that any action taken by the Commission is consistent with ODFW programs to conserve the species or, if no plan is in place, that the act will not "reduce the likelihood of the survival or recovery of the threatened species of endangered species." ORS 496.182(2). The federal Act prohibits the "taking" of endangered species. 16 USCA § 1538(a)(1)(B). Taking is defined in Section (3)(18) includes "harm" as well as killing and capturing. 16 USCA § 1532 (19). The regulatory definition of "harm" includes "significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering." 50 CFR § 17.3. Thus it is clear that actions by the Commission can rise to the level of an unpermitted taking of a species if habitat destruction or modification harms a listed species. See Palilia v. Hawaii Department of Land and Natural Resources, 649 F.Supp. 1070 (D. Hawaii 1986), aff'd, 852 F.2d 1106 (9th Cir. 1988). Significantly, the above reference Palilia case, the oft-cited case on habitat alteration rising to the level of take involved a state agency allowing goats to destroy the food source of an endangered bird. Taking water from fish is at least as clear a causal connection.

Listing under the state and federal endangered species act is a sign not only of the health of a particular species but also a warning signal for the health of the human environment. It has been a goal of Governor Roberts and the state not to allow resource conflicts to reach the level where federal intervention removes the state control. The

proposed approval of these applications will inevitably lead to these issues being resolved in Washington D.C. not in Oregon.

1. The Water Availability Analysis is Defective

The analysis is defective for the following reasons:

- There was no analysis of surface water availability. The technical reports did not have any analysis of the status of water availability in the Lost River. As of September 29 there was no such analysis in any of the above referenced Department files. Since the uses in these applications will substantially interfere with Lost River flows, a surface water availability analysis is crucial to the water availability analysis for these ground water permits.

In addition, any such analysis must adequately consider rights-of-record. At any given moment there may be valid, but unexercised, water rights in a basin. Water users may at any time use the water to which they are legally entitled up to the limit of their rights-of-record. Failure to account for future increases in water use pursuant to rights-of-record results in an over-estimation of water availability and over-allocation of the resource. This is contrary to the statewide Water Allocation Policy. OAR 690-400-010.

- The analysis appears to ignore existing and possible future uses of ground water that are exempt from Oregon's permitting requirements. We understand that there is no municipal water supply system in the City of Bonanza and most if not all residential uses of water in the City is diverted through exempt ground water wells. Thus, existing and future exempt wells have a cumulative impact on the resource and should be factored into the water availability analysis.

- The water availability analysis for surface flows in the Lost River must differentiate between natural flows and regulated flows (water released from upstream storage). There are many storage facilities in the Lost River system which contribute a majority of the water in the Lost River System. The flow releases from these federal projects are likely to be going through alterations in response to endangered species habitat concerns in the reservoirs. This will mean that flow regimes in the Lost River will be changing. If these proposed ground water uses in these applications essentially draw from surface waters then they may be using stored water. Failure to differentiate between natural flows and regulated flows in the analysis overestimates the amount of natural flow available for use, leads to unrealistic expectations on the part of the applicant and will result in the over-allocation of the resource. This is

contrary to the statewide Water Allocation Policy, OAR 690-400-010. As a legal and policy matter, the Department must differentiate between stored water and natural flow in its water availability analysis for new permits and in its regulation of existing permits.

- The analysis fails to take into account flows needed to protect endangered fish populations in the Lost River. This is contrary to the statewide allocation and instream flow policies which require protection of instream flow needs when considering applications for out-of-stream uses. OAR 690-410-070(2) and 690-410-030.

2. The proposed conditions are not sufficient to protect the public's interest in the resource.

Temporary Permits

The technical reports propose to issue temporary permits for these proposed uses that will only be issued if certain conditions are met. WaterWatch and ONRC object to the use of temporary permits for the following reasons:

- The issuance of temporary permits does nothing to halt the further degradation of the resources in the Lost River. The fact that the water use is "temporary" ignores the fact that the resource, without these new uses of water, is already in critical condition.
- The permit only allows these permittees to be shut off if the use harms existing senior water right holders. There are no water rights, senior or otherwise, that protect instream values in this river system. Thus, these conditions do not allow the Commission to regulate these new permittees to protect instream values such as water quality or endangered species.
- There is no public notice or opportunity to comment on permit renewals.
- There are no clear standards for renewal. The condition allows renewal of the temporary permits if the surface flows are not "significantly diminished"; requires a "plan" for alternative long-term water supply; if ground water levels have not "excessively declined"; and water level reports have been "timely submitted"².

² If temporary permits were issued, the permittee should be required to show that they complied with measurement and reporting requirements relating to water use and to periodic water level reports.

Other Permit Conditions

In addition, the proposed permit conditions relating to measurement and reporting of water use would not be sufficient if by some stretch of the imagination these applications were in the public interest.

3. **The proposed uses are not in the public interest because they will deplete and adversely affect quantity and quality of water needed to meet the needs for endangered species uses of the Lost River.**

The proposed uses would deplete spring flows needed for endangered suckers in the Lost River. Adequate quantity and quality of water needed for migration and spawning are critical for the survival and restoration of sucker species in the basin. Reduced streamflows caused by depletion of springs by groundwater pumping contribute to higher water temperatures, reduced water quality and loss of aquatic habitat. Low flows impede passage and rearing in the mainstem Lost River. In addition, this water is proposed to be diverted for agricultural uses which have identified by DEQ as causing water quality problems. In addition, agricultural practices in the area have been identified by the USFWS as one of the causes of decline of the endangered suckers. The continued issuance of water use permits, whether temporary or permanent, in the face of the duty to protect critical habitat for threatened and endangered fish species, is contrary to the requirements of state and federal law.

4. **The proposed uses are contrary to Oregon policy.**

ORS 537.170(5)(a) and (c) require the Department to ensure that waters in the basin will be used and controlled for all purposes, not just consumptive purposes. Instead of spending valuable state resources processing these applications, the state should be working to protect instream flows in this basin through the adoption of instream water rights. The Statewide Instream Flow Protection Policy states that "(w)here streamflows have been depleted to the point that public uses have been impaired, methods to restore the flows are to be developed and implemented." OAR 690-410-030(1). When considering applications for new water rights the agency is required to consider the needs of instream and out-of-stream uses and the need to develop streamflow restoration programs. OAR 690-410-030(2)(a). The Commission's review relating to instream needs is not limited to existing instream water rights or applications for water rights, it must also consider instream flow needs that are not specifically protected. OAR 690-410-070(2)(h). No such consideration has been done.

Instream water rights are an essential tool that must be utilized if Oregon is to achieve equitable allocation of water. Instream water rights not only protect unallocated waters instream, they serve as a management objective for obtaining the amount of instream flows needed to support public uses. OAR 690-77-015(2). The presence of endangered sucker

populations in the Klamath River system makes the protection of instream flows even more important for achieving a balance in this basin. The establishment and protection of instream water rights will help to achieve a balanced allocation of water between public instream and other uses in the basin and throughout the state.

Establishment of the instream water right also furthers statewide policies, priorities and goals for streamflow restoration including those in OAR 690-11-030(1), 690-410-070, and 690-77-015. Protection of streamflows is also necessary in order to carry out the state policy of restoring native fish stocks. Oregon law states that "it is declared to be a goal of the people of the State of Oregon to restore native stocks of salmon and trout to their historic levels of abundance." ORS 496.435.

Oregon statutes and rules also call for the state to "aggressively promote" water conservation and places a high priority on eliminating waste and improving the efficiency of water use. ORS 537.460(2)(a) and OAR 690-410-060(1). Proposed condition #8 does little to further these policies. Given the critical status of fish populations in the basin, the water quality problems and the fact that the proposed use is the type of use known to cause these existing problems, it is imperative that any use allowed be held to a strict efficiency standard prior to issuance of any new permits.

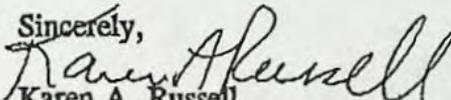
Oregon's statewide storage policy recognizes that storage is an "integral part" of the State's "strategy to enhance the public" benefits resulting from instream uses of Oregon's waters. OAR 690-410-080(1). The policy also recognizes that "(s)orage can provide increased water management flexibility and control." *Id.* One of the principles of the policy is to require that storage projects be managed in a way that will "protect and enhance the public health, safety and welfare, and the state's natural resources." OAR 690-410-080(2)(d). The Department's historic failure to manage stored water once it is released from storage and to distinguish between natural and regulated flows is not consistent with these policy mandates. Until the state begins to differentiate between natural and stored, and then begins to manage the resource consistent with that management strategy it will be ill-equipped to address the management and resource protection issues that it faces in the Klamath River Basin.³

³ This failure also undermines efforts of the BOR and other federal agencies to obtain water needed for fish in the Lost River basin. The endangered suckers rely both on lakes and on stream and spring habitat. This means the BOR and the state will have to develop a management strategy for the suckers that protect certain reservoir levels and instream flows. Unless and until the Department differentiates between natural flow and stored water, the Department is creating yet another situation where a person who does not have a rights to use stored water is diverting ground water which affects stored water flows - potentially the stored water that the public is paying to have released into the river for fish needs. This is

Finally, the Commission's statewide policy on ground water management states that "(g)roundwater and surface water shall be managed conjunctively where to do so will protect the water resources, existing water rights, and the public interest." OAR 690-410-010(2)(a). The Policy also requires that "(i)nterference between groundwater uses and competing ground and surface water uses shall be prevented and/or controlled to protect the water resource and existing rights." OAR 690-410-010(1). The policy recognizes the state's duty to prevent ground water overdraft or contamination in order to avoid environmental damage. *Id.* For the reasons outlined above, the proposed issuance of these pending applications are not consistent with any of the parts of this statewide policy.

◆ Conclusion

We are open to discussion with the Department and the applicants on all of the issues raised in this objection letter. However, in order to protect the public's interest in the resource, and the endangered fish species which rely on this resource, these and other applications for permits for water from the Lost River Basin should not be considered until sufficient instream flows are determined and guaranteed throughout the basin. Until these flows are determined, the Department has no way to ensure that new uses proposed in the system will not harm the public interest. It is bad public policy to issue water rights based upon limited information when there is clearly a biological crisis in this critical river system.

Sincerely,

Karen A. Russell
Assistant Director
WaterWatch

Wendel Wood
ONRC

encl.

not only contrary to Oregon water law, it undermines the efforts of federal, state, and local governments, tribal governments and concerned citizens who have been working to protect one of Oregon's, and the nations, most precious resources.

Attachment 1

OREGON DEPARTMENT OF FISH & WILDLIFE
MINIMUM FLOW RECOMMENDATIONS FOR LOST RIVER

PERIOD	MERRILL	BONANZA	RM 64.0
January	30	25	15
February	30	30	15
March	30	30	15
April	50	35	20
May	50	35	20
June	50	35	20
July	20	10	10
August	15	10	5
September	15	10	5
October	15	10	5
November	15	10	5
December	20	15	10

Flow recommendations in cubic feet per second.
Estimates for Trout habitat.

August 13, 1993

Balin Ranch
13600 Homedale Rd.
Klamath Falls, OR 97603

Reference: G-12972

Dear Balin Ranch:

Under separate cover I have enclosed our report of technical review. This process is fairly new to staff and has taken more time to complete than anticipated; however, we believe that the process is more fair and will allow staff to deal with issues in a more timely manner. I truly apologize for the delay.

It will be necessary for you to amend your application to agree with the map. The map is for irrigation of 307.1 acres and the application for 250.0 acres.

After submission of the map, fees and the deadline for objections to the technical review expires, staff will again review the file for objections and further process your application as soon as possible.

Please feel free to contact me if you have any questions and I will be happy to address any concerns you may have.

Sincerely,



STEVE BROWN
Manager
Water Rights Division

cc:



STATE OF OREGON

COUNTY OF KLAMATH

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BALIN RANCH
13600 HOMEDALE ROAD
KLAMATH FALLS, OREGON 97603

503-882-9797

to use the waters of A WELL in the LOST RIVER BASIN for IRRIGATION OF 250.0 ACRES.

This permit is issued approving Application G-12972. The date of priority is JUNE 5, 1992. The use is limited to not more than 3.5 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

SE 1/4 NW 1/4, SECTION 18, T 41 S, R 14 E, W.M.

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated during the irrigation season of each year.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

A description of the proposed place of use under this permit is as follows:

NW 1/4 NW 1/4
SW 1/4 NW 1/4
NW 1/4 SW 1/4
SW 1/4 SW 1/4
SECTION 7
NE 1/4 NW 1/4
NW 1/4 NW 1/4
SW 1/4 NW 1/4
SE 1/4 NW 1/4
SECTION 18

TOWNSHIP 41 SOUTH, RANGE 14 EAST, W.M.

The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times. When required by the department, the permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Actual construction work shall begin on or before , and shall be completed on or before October 1, 1994. Complete application of the water shall be made on or before October 1, 1995.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for beneficial use of water without waste. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Issued this date, .

Water Resources Department
Martha O. Pagel
Director

WaterWatch

O F O R E G O N

RECEIVED
JUN 19 1992
WATER RESOURCES DEPT.
SALEM, OREGON

June 19, 1992

Stephen C. Brown
Water Resources Department
3850 Portland Rd. N. E.
Salem, OR 97310

RE: Application for Permit #G12972, Balin Ranch
Lost River Basin, Klamath Co., 3.5 CFS Irrigation

WaterWatch has reviewed the limited amount of information contained in the public notice of this water right application. Based upon that information, WaterWatch raises the following issues, questions and concerns:

Is there unappropriated water available for this proposed use? How will the Department determine water availability for this proposed use? What will be the cumulative effect of this proposed use, in combination with other, already existing uses of the aquifer?

Is the groundwater source in question in hydraulic connection with surrounding surface waters? If so, what is the amount of surface water depletion and what effect will this proposed use have on instream flows necessary to protect the public's interest in fish, wildlife, recreation and a healthy aquatic system? We oppose an application which in any way reduces surface water flows needed for the public uses that are served by instream water rights.

Given the importance of this groundwater resource, and the Department's limited enforcement staff, it only makes sense to require this applicant to measure and record water use. Measurement not only helps the Department carry out its statutory mandate to promote the control of water resources in Oregon for all beneficial uses, it helps the Department protect the public's interest in assuring the use is within the bounds of the permit. ORS 536.220(1)(a), 537.170(5).

Will this proposed use be compatible with Goal 5 elements of the local comprehensive plan?

It is a high priority of the state to eliminate waste and improve the efficiency of water use. OAR 690-410-060(1). Statewide policy also calls upon water users to use and maintain their water systems in a manner consistent with the state's priority. What conditions are proposed for this permit that will carry out and encourage compliance with state policy?

Is this an existing illegal use of water? If so, will the continued use without a permit cause harm to existing water rights and the public interest?

We request copies of the draft permit and the Department's technical analysis of this application.

Sincerely,

Jim Myron

bc:

June 12, 1992

BALIN RANCH
13600 HOMEDALE RD
KLAMATH FALLS, OR 97603

REFERENCE: File(s) G-12972

We received your application(s) proposing to use water, along with supporting data and fees. Your receipt is enclosed unless you received it earlier. The application has been assigned the above referenced file number and will be reviewed in detail as time allows. If you need to call or write to us, be sure to reference the file number(s) listed above so we may assist you promptly.

Applications which are received in proper form with required maps, supporting data and fees can be considered for approval by issuance of permits following a mandatory 60-day waiting period and after public interest matters are resolved.

Processing of applications which require additional information will be delayed further. If you feel that a delay in the processing of your application will cause a hardship, please advise in writing.

If the application is approved, the use allowed by the permit will be subject to the Water Resources Commission's Basin Program statements, instream flow requirements, and demands of prior rights.

If you have any questions, please contact the Water Right Section at the telephone number referenced below.

cc: CWRE



3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

STATE OF OREGON
WATER WELL REPORT
(as required by ORS 537.765)

KLAM 10642 NOV 23 1992

WATER RESOURCES DEP.
SALEM, OREGON

(START CARD) # 39907

415/14E/18cd

(1) OWNER: Well Number # 1
Name BALIN RASCITES
Address 13600 HEMERDALE RD
City KLAMATH FALLS State ORE Zip 97601

(2) TYPE OF WORK:
 New Well Deepen Recondition Abandon

(3) DRILL METHOD:
 Rotary Air Rotary Mud Cable
 Other

(4) PROPOSED USE:
 Domestic Community Industrial Irrigation
 Thermal Injection Other

(5) BORE HOLE CONSTRUCTION:
Special Construction approval Yes No Depth of Completed Well 724 ft.
Explosives used Yes No Type _____ Amount _____

HOLE Diameter	From		To	Material	SEAL From		To	Amount sacks or pounds
22	0	19		COMBAT	0	19		25 SCS
15	19	150						
12	150	467						

How was seal placed? Method A B C D E
 Other

Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from _____ ft. to _____ ft. Size of gravel _____

(6) CASING/LINER:

Diameter	From	To	Gauge	Material			
				Steel	Plastic	Welded	Threaded
Casing: 16" O.D.	+1	19	250	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Liner:				<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Final location of shoe(s) 19 FEET

(7) PERFORATIONS/SCREENS:
 Perforations Method _____
 Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>
						<input type="checkbox"/>	<input type="checkbox"/>

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Bailer Air Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
1000		150	1 hr.

Temperature of Water 64 OF Depth Artesian Flow Found _____
Was a water analysis done? Yes By whom _____
Did any strata contain water not suitable for intended use? Too little
 Salty Muddy Odor Colored Other _____
Depth of strata: _____

(9) LOCATION OF WELL by legal description:
County KLAMATH Latitude _____ Longitude _____
Township 41S N or S. Range 14E E or W. WM.
Section 18 SE 1/4 SW 1/4
Tax Lot 00350-000 Block _____ Subdivision _____
Street Address of Well (or nearest address) WEST WAREEN VALLEY RD BENTON, ORE

(10) STATIC WATER LEVEL:
15 ft. below land surface. Date 10/23/92
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:
Depth at which water was first found _____

From	To	Estimated Flow Rate	SWL
383	724	INDETERMINATE	

(12) WELL LOG:
Ground elevation _____

Material	From	To	SWL
Boulders & Brown Clay	0	2	
BLACK BASALT	2	155	
GREY BASALT	155	279	
HARD BROWN ASH	279	302	
HARD GREY BASALT	302	376	
BLACK BASALT	376	389	
HARD BLACK BASALT	389	400	
BROWN LAVA & CLAY	400	406	
BROWN LAVA & CLAY ASH	406	423	
BROWN SANDSTONE	423	429	
BROWN LAVA & CLAY ASH	429	460	
BLACK BASALT	460	522	
BROWN LAVA & CLAY ASH	522	557	
BLACK BASALT	557	583	
BROWN LAVA & CLAY ASH	583	602	
HARD BLACK BASALT	602	614	
BROWN LAVA & CLAY ASH	614	647	
GREY BASALT	647	675	
BROWN LAVA & RED CLAY ASH	675	688	
HARD GREY BASALT	688	724	

Date started 9/23/92 Completed 10/23/92

(unbonded) Water Well Constructor Certification:
I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my best knowledge and belief.
Signed _____ Date _____ WWC Number _____

(bonded) Water Well Constructor Certification:
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.
Signed [Signature] Date 11/20/92 WWC Number 601

Land Use Information Form: Permits, Hydroelectric Licenses, Water Uses in Addition to Classified Uses

G-12972

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. The Water Resources Department will use this and other information to evaluate the water use application. **DO NOT FILL OUT THIS FORM IF water is to be diverted, conveyed, and/or used only on federal lands.**

Applicant's Name: Balin Ranch
 Address: 13600 Homedale Rd
 City: Klamath Falls State: OR Zip: 97603 Day Phone: 882 9797

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) 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.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
501				
<u>41-14-18-300</u>	<u>Agriculture - EFLU CIG</u>			
<u>41-14-1400-1500</u>	<u>" " "</u>			

Please list all counties and cities within which water is proposed to be diverted, conveyed, and/or used. Klamath

The following section must be completed by a planning official from **each** county and city listed unless your project will be located **entirely within city limits**. In this case, only the city planning agency must complete this form. Please request extra forms as needed.

For Local Government Use Only

Local government planning officials are to complete the remainder of this form. If this form can not be completed while the applicant waits, please sign and detach the receipt as instructed below. Please mail the completed form directly to the Water Resources Department (3850 Portland Rd. NE, Salem, OR, 97310) within 60 days of the date of receipt as shown below. If the form is not completed within 60 days, the Department may take action to approve the water use.

- a) Check the appropriate box below and provide requested information.
- Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): AM 54. Go to section b) on reverse side.
- Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below. **Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action plus any accompanying findings is sufficient.)**

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

This receipt must be signed by a local government representative and returned to the applicant for inclusion in the WRD application IF the local government can not provide the above requested land use information while the applicant waits.

City or County: KLAMATH COUNTY

Staff Contact: J.K. LUNDANE Phone: 883 - 4200

Signature: J.K. Lundane Date of Information Request: 6-9-92

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: J.K. LUNDAN

Title: SENIOR PLANNER

Date: 8-8-92
Phone: 883-4200

Signature: J.K. Lundan

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet. For additional information call Roberta Jortner or Rick Bastasch at 378-3671.

Additional Comments:

Lined area for additional comments.

Description of Water Use

Note to Applicant: This sheet will provide local planning staff with a basic description of your proposed water use. Please fill out this sheet before bringing the attached land use form to your local planning office. It will help local planning offices complete your land use information form quickly.

Note to Local Planning Officials: Please initial this sheet. Do not separate it from the land use information form. If needed, please make a separate copy for your records.

Applicant Name: Bahn Ranches
 Address: 13600 Klamath Falls
Oregon 97603
 Phone: 882-9797

WATER DIVISION
 JUN - 9 1990
 DEPT.

Please indicate what you will use the water for. Check all boxes that apply and fill in the blanks with key characteristics of the project

- Irrigation (crop type, golf course, nursery or greenhouse): Pasture - Livestock
- Livestock (type of livestock, feedlot, slaughterhouse): _____
- Residential (# units, single or multi-family, # lots if partition or subdivision): _____
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- Institutional (i.e., school, library, etc.): _____
- Mining (aggregate, metal, open pit, placer, etc.): _____
- Recreation (park, campsite, pond, etc.): _____
- Fish and Wildlife (pond, hatchery, etc.): _____
- Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources: _____ _____ _____	_____ Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
<input type="checkbox"/> Reservoir or pond	
<input type="checkbox"/> Ground Water	

OK to file for % the

DATE INITIALS MINIMUM REQUIREMENTS TO FILE

Name and mailing address
Source of water
Quantity of water
Location of project
Use of water
Signature of applicant
Allowable use by policy
State Engineer withdrawal
Legislative withdrawal
Land use approved _____ pending _____

FIELD OPERATIONS

Application date stamped per money receipt date
Stream Indexed
Stream Code _____
Scenic Waterway _____
Findings:
1) Concluded - Scenic-Reg Ack letter
2) Under Study - Scenic-Ack letter
3) Basin 2 - Willamette-Ack letter
Plat Carded and copy made YES NO
Conflicts (well _____ surface _____) X
Prior ISWR # _____
Within Irrigation District Layne/Valley (name)
Notified
District excerpt received
Entered in Paradox
Prepare six copies of Draft Permit
Send one copy to Data Center

SUPPORT SERVICES

Stamp contents with application number
Mail/Provide copies of draft permits to DEQ, ODFW, PARKS, AND WATERMASTER
Mail ack letter (provided by Data Center) with receipt to applicant, cc to CWRE and file
Place label on file and card
If dam is over 10 feet or storage exceeds 9.2 AC-FT, route file to Dam Safety Section
Notify Irrigation District

FIELD OPERATIONS

Ownership Statement YES NO
Name and address of all owners
Other landowners notified
Legal Description
Need Commission review
____ Requests greater than 5.0 cfs
____ Dam height greater than 20 feet
____ Storage greater than 100 acre-feet
____ Out of Basin diversion
____ Groundwater recharge project
____ Other substantial public interest
GW comments received _____ resolved _____
ODFW comments received _____ resolved _____
DEQ comments received _____ resolved _____
Interest Groups _____
Water availability received _____
Objections received _____ resolved _____
Protest received _____ resolved _____
Management Codes

EXAMINATION FEE: _____
RECORDING FEE: _____

TOTAL: _____
REFUND: _____
DEFICIENT: _____

REMARKS: _____

Balin Ranch

G-12972

Scott Balin

13600 Homedale Rd

Klamath Falls, OR 97603

Balin Ranch

G-12972

Scott Balin

13600 Homedale Rd

Klamath Falls, OR 97603

RECEIVED

9598

DEC 23 1992

BALIN RANCHES

21 Dec 92

To: OREGON WATER RESOURCE DEPT

WATER RESOURCES DEPT.

Cash Account No.

10000

Account Name SALEM, OREGON
Checking-Operat

Act No	Ent	OH	Quantity	Cost/Unit	Description	Amount
110450	1		308.00	.00	Acrs	.00
110450	1		.00	.00	App#612972	.00
110450	1		.00	.00	Exam Fee	200.00
110450	1		10.00	10.00	Acrs	100.00
110450	1		298.00	2.00	Bal Acrs	596.00
110450	1		.00	.00	Fd 6-4-92	-780.00
110450	1		.00	.00	116.00 Bal	.00

Total

116.00

NUMBER 89171

Check 116⁰⁰ NO _____ Cash _____

____ Surface Application

____ Reservoir Application

Ground Water Application

____ Transfer Application

____ Power Claim

____ Hydroelectric Examination

____ Hydroelectric License

____ Copying

____ Assignment

____ Extension of Time

____ Other

____ P-6

____ Quadrangle

____ Basin

____ Protest

____ Constructors Examination

____ Constructors License

____ Adjudication

*Additional
\$ 116 - Recordings*