

**OREGON WATER RESOURCES DEPARTMENT
INTEROFFICE MEMO**

To: Jeana Eastman Date: December 1, 2006

From: Mike Zwart

Subject: Comments on Letter to File R-86559 and Related File G-16663

I reviewed the letter and attachments, dated June 30, 2006, from Elizabeth Howard. I will restrict my comments to the wells and potential interference. I have no comments regarding the Reservoir application.

Based on the well log provided for the Morrow County Grain Growers (MCGG) well (SHER 50058) and its reported location, it appears likely that the proposed well for the above ground-water file for Barnett Estate (SHER 50175) and the MCGG well share the same water-bearing zone. Therefore, it will be expected that pumping or flowing one well will have an impact on the water level (or shut-in head pressure) at the other. This is usually referred to as pumping interference, hydraulic interference or well interference. Without more site-specific data, it cannot be known if the proposed use of the Barnett Estate well will cause substantial interference, as defined in the Division 8 rules, with the MCGG well. However, I recommended permit condition 7N in my review of application G-16663. This condition is, in part, referenced below and it includes language highlighted in bold that would require the permittee/water user to limit the use of the well if hydraulic interference with a senior well exceeds 25 feet. I believe that the proposed condition will result in adequate protection for any senior ground-water rights in the vicinity, including exempt uses of ground water.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. **Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.**

PUBLIC INTEREST REVIEW FOR GROUND WATER APPLICATIONS

TO: Water Rights Section Date October 16, 2006

FROM: Ground Water/Hydrology Section Michael Zwart
Reviewer's Name

SUBJECT: Application G- 16663 Supersedes review of N/A
Date of Review(s)

PUBLIC INTEREST PRESUMPTION; GROUNDWATER

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525. Department staff review ground water applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. This review is based upon available information and agency policies in place at the time of evaluation.*

A. GENERAL INFORMATION: Applicant's Name: Barnett Estate Partnership County: Sherman

- A1. Applicant(s) seek(s) 3.0 cfs from one well(s) in the Deschutes* Basin,
Spanish Hollow Creek subbasin Quad Map: Wasco
- A2. Proposed use: Irr. 606.1 ac., Comm/Ind., Res. Seasonality: Irr., March 1 to October 31; Year Round
- A3. Well and aquifer data (attach and number logs for existing wells; mark proposed wells as such under logid):

Well	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	SHER 50175	1	CRB	3.0	1N/17E-4 SW-NW	1830' S, 60' E fr NW cor S 4
2						
3						
4						
5						

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	1212	80	-55.4	10/6/05	142**	0-102	0-102	None	None	180	?	Flo

Use data from application for proposed wells.

- A4. **Comments:** *Well is within a drainage that is tributary to the Columbia, not within the Deschutes or John Day SWW.
**Bottom 8 feet of well is plugged. The shallowest water-bearing zone (80-89) is cased and sealed off. The well flows with a shut-in pressure of 24 psi.

- A5. ☒ **Provisions of the Deschutes** Basin rules relative to the development, classification and/or management of ground water hydraulically connected to surface water ☐ are, or ☒ are not, activated by this application. (Not all basin rules contain such provisions.)
Comments: _____

- A6. ☐ Well(s) # _____, _____, _____, _____, _____, tap(s) an aquifer limited by an administrative restriction.
Name of administrative area: _____
Comments: _____

B. GROUND WATER AVAILABILITY CONSIDERATIONS, OAR 690-310-130, 400-010, 410-0070

B1. Based upon available data, I have determined that ground water* for the proposed use:

- a. ☐ is over appropriated, ☐ is not over appropriated, or ☒ cannot be determined to be over appropriated during any period of the proposed use. * This finding is limited to the ground water portion of the over-appropriation determination as prescribed in OAR 690-310-130;
- b. ☐ will not or ☐ will likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the ground water portion of the injury determination as prescribed in OAR 690-310-130;
- c. ☐ will not or ☐ will likely to be available within the capacity of the ground water resource; or
- d. ☒ will, if properly conditioned, avoid injury to existing ground water rights or to the ground water resource:
- i. ☒ The permit should contain condition #(s) 7N;
- ii. ☒ The permit should be conditioned as indicated in item 2 below.
- iii. ☐ The permit should contain special condition(s) as indicated in item 3 below;

- B2. a. ☐ Condition to allow ground water production from no deeper than _____ ft. below land surface;
- b. ☐ Condition to allow ground water production from no shallower than _____ ft. below land surface;
- c. ☒ Condition to allow ground water production only from the basalt ground water reservoir between approximately _____ ft. and _____ ft. below land surface;
- d. ☐ Well reconstruction is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Ground Water Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

- B3. Ground water availability remarks: Potential for water-level declines and overdraft of the resource exists virtually everywhere the Columbia River Basalt aquifers are developed, especially in Eastern Oregon where recharge is small. If no measurement/decline condition is used, as recommended above, then I would need to re-review the file, with the likely result being that one or both of the boxes 'will not likely be available...' being checked under B1b or B1c.

C. GROUND WATER/SURFACE WATER CONSIDERATIONS, OAR 690-09-040**C1. 690-09-040 (1): Evaluation of aquifer confinement:**

Well	Aquifer or Proposed Aquifer	Confined	Unconfined
1	Basalt of the Columbia River Basalt Group	☒	☐
		☐	☐
		☐	☐
		☐	☐
		☐	☐

Basis for aquifer confinement evaluation: Basalt aquifers are typically confined except where they occur at shallow depth or are hydraulically connected with an overlying unconfined aquifer. The aquifer here is relatively shallow, but appears to be locally confined by a clay bed and possibly a low-permeable basalt into which the well is cased and sealed.

C2. 690-09-040 (2) (3): Evaluation of distance to, and hydraulic connection with, surface water sources. All wells located a horizontal distance less than ¼ mile from a surface water source that produce water from an unconfined aquifer shall be assumed to be hydraulically connected to the surface water source. Include in this table any streams located beyond one mile that are evaluated for PSI.

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (ft)	Hydraulically Connected?			Potential for Subst. Interfer. Assumed?	
						YES	NO	ASSUMED	YES	NO
1	1	Spanish Hollow	1267	1175	400	☐	☒	☐	☐	☒
1	2	Unn trib Sp Hollow	1267	1195	3800	☐	☒	☐	☐	☒
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐

Basis for aquifer hydraulic connection evaluation: The presence of mapped springs at elevations below the head in the well suggests that ground water discharges locally to surface water, but not likely at the nearest reaches of the creeks. Based on the deeper casing and seal here than at City of Wasco wells, it appears likely that hydraulic connection is at least one mile from the well, and this distance will increase if there is a small regional dip to the north.

Water Availability Basin the well(s) are located within: No WAB data in this area.

C3a. 690-09-040 (4): Evaluation of stream impacts for each well that has been determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water source. Limit evaluation to instream rights and minimum stream flows that are pertinent to that surface water source, and not lower SW sources to which the stream under evaluation is tributary. Compare the requested rate against the 1% of 80% *natural* flow for the pertinent Water Availability Basin (WAB). If Q is not distributed by well, use full rate for each well. Any checked ☒ box indicates the well is assumed to have the potential to cause PSI.

Well	SW #	Well < ¼ mile?	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐

C3b. **690-09-040 (4):** Evaluation of stream impacts by total appropriation for all wells determined or assumed to be **hydraulically connected and less than 1 mile** from a surface water source. **Complete only if Q is distributed among wells.** Otherwise same evaluation and limitations apply as in C3a above.

	SW #		Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
			☐			☐		☐		☐
			☐			☐		☐		☐
			☐			☐		☐		☐
			☐			☐		☐		☐

Comments: This section does not apply.

C4a. **690-09-040 (5):** Estimated impacts on hydraulically connected surface water sources greater than one mile as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (b), (c) and (d), which are not included on this form. Use additional sheets if calculated flows from more than one WAB are required.

Non-Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
(A) = Total Interf.													
(B) = 80 % Nat. Q													
(C) = 1 % Nat. Q													
(D) = (A) > (C)													
(E) = (A / B) x 100		%	%	%	%	%	%	%	%	%	%	%	%

(A) = total interference as CFS; (B) = WAB calculated natural flow at 80% exceed, as CFS; (C) = 1% of calculated natural flow at 80% exceed, as CFS; (D) = highlight the checkmark for each month where (A) is greater than (C); (E) = total interference divided by 80% flow as percentage.

Basis for impact evaluation: This section likely applies, but it is not appropriate to use our current Hunt/Wozniak model for aquifers such as the CRB, in which the water-bearing zone is hydraulically connected to surface water only within a restricted reach. Also, in this case, the distance where hydraulic connection occurs is not obvious.

C4b. 690-09-040 (5) (b) The potential to impair or detrimentally affect the public interest is to be determined by the Water Rights Section.

- C5. ☐ **If properly conditioned**, the surface water source(s) can be adequately protected from interference, and/or ground water use under this permit can be regulated if it is found to substantially interfere with surface water:
- i. ☐ The permit should contain condition #(s) _____;
 - ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. SW / GW Remarks and Conditions _____

References Used: Local well logs; regional geologic mapping; nearby reviews.

D. WELL CONSTRUCTION, OAR 690-200

D1. Well #: 1 Logid: SHER 50175

D2. THE WELL 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) _____

D3. THE WELL construction deficiency:

- a. ☐ constitutes a health threat under Division 200 rules;
- b. ☐ commingles water from more than one ground water reservoir;
- c. ☐ permits the loss of artesian head;
- d. ☐ permits the de-watering of one or more ground water reservoirs;
- e. ☐ other: (specify) _____

D4. **THE WELL construction deficiency is described as follows:** _____

D5. **THE WELL** a. ☐ was, or ☐ was not constructed according to the standards in effect at the time of original construction or most recent modification.

b. ☐ I don't know if it met standards at the time of construction.

D6. ☐ **Route to the Enforcement Section.** I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Enforcement Section and the Ground Water Section.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

D7. ☐ Well construction deficiency has been corrected by the following actions:

(Enforcement Section Signature)

D8. ☐ Route to Water Rights Section (attach well reconstruction logs to this page).

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

WASH. 18 MI.
STATE 84) 6 MI.

678000m E.

42°30"

679

RUFUS 7 MI.

680

1875 11 NW
(RUFUS)

68



Water Right Conditions Tracking Slip

Groundwater/Hydrology Section

FILE ## G-16663

ROUTED TO: Water Rights

TOWNSHIP/

RANGE-SECTION: 1N/17E-46c

CONDITIONS ATTACHED? ☒ yes ☐ no

REMARKS OR FURTHER INSTRUCTIONS:

Reviewer: Michael Zwart

MEMO

October 16, 2006

TO: Application G- 16663

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)

Per ORS 390.835, the Ground Water Section is able to calculate ground water interference with surface water that contributes to a Scenic Waterway. The calculated interference is distributed below.

Per ORS 390.835, the Ground Water Section is **unable** to calculate ground water interference with surface water that contributes to a scenic waterway; **therefore, the Department is unable to find that there is a preponderance of evidence that the proposed use will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway.**

Calculate the percentage of consumptive use by month and fill in the table below. If interference cannot be calculated, per criteria in 390.835, do not fill in the table but check the "unable" option above, thus informing Water Rights that the Department is unable to make a Preponderance of Evidence finding.

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.

[illegible]

TRANSMISSION VERIFICATION REPORT

TIME : 06/13/2006 10:08
NAME : WRD 1ST FL
FAX : 5039860901
TEL : 5039860901
SER.# : BROJ5J339815

DATE, TIME
FAX NO./NAME
DURATION
PAGE(S)
RESULT
MODE

06/13 10:03
915032247324
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OK
STANDARD
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OREGON WATER RESOURCES DEPARTMENT



State of Oregon
Water Resources Department
725 Summer St NE, Ste A
Salem, OR 97301-1266
Phone #: (503) 986-0900
Fax#: (503) 986-0901
www.wrd.state.or.us

*Per Request -
Faxed copy of
groundwater
application*

FAX TRANSMITTAL

TO: Elizabeth Howard FAX NUMBER: 503 224-7324
Dawn Carney
DATE: 6-13-06 PAGES: 17, INCLUDING COVER SHEET
FROM: Leona Albin PHONE: (503) 986-0 818
COMMENTS: Application for G16663

G-16663

WATER RIGHTS
Water Rights Information

TECHNICAL SERVICES
Hydrographics

FIELD SERVICES
Regional Liaisons

OREGON WATER RESOURCES DEPARTMENT



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503-986-0904

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16663

Proposed Final Order

Summary of Recommendation: The Department recommends that the attached draft permit be issued with conditions.

Application History

On April 19, 2006, BARNETT ESTATE PARTNERSHIP submitted an application to the Department for the following water use permit:

- Amount of Water: 3.0 CUBIC FEET PER SECOND (CFS) AND 2.5 ACRE FEET (AF)
- Use of Water: IRRIGATION USE ON 606.0 ACRES, COMMERCIAL USE, MANUFACTURING USE, STORAGE OF GROUND WATER IN POND 1 FOR MULTIPLE PURPOSE, AND POND MAINTENANCE OF POND 1 AND POND 2 (APPLICATION R-86559)
- Source of Water: A WELL (SHER 50175) IN SPANISH HOLLOW BASIN
- Area of Proposed Use: Sherman County within SECTION 3 AND SECTION 4, TOWNSHIP 1 NORTH, RANGE 17 EAST, W.M.; AND SECTION 33, TOWNSHIP 2 NORTH, RANGE 17 EAST, W.M.

On June 30, 2006, the Department received comments from Elizabeth Howard, the attorney for Morrow County Grain Growers (MCGG). Ms. Howard expressed concerns about potential injury the proposed use may have on MCGG's exempt well.

On January 12, 2007, the Department mailed the applicant notice of its Initial Review, determining that "The use of 3.0 cubic feet per second from a well (SHER 50175) in Spanish Hollow Basin for irrigation use on 606.0 acres from March 1 through October 31, year-round commercial use, year-round industrial use, and year-round pond maintenance of Pond 1 and Pond 2 (Application R-86559) is allowable. The storage of 2.5 acre feet of ground water in Pond 1 for year-round multiple purpose from a well (SHER 50175) in Spanish Hollow Basin is allowable." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On January 16, 2007, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

Within 30 days of the Department's public notice, additional comments were received from Ms. Howard which supported a condition included in the January 12, 2007, Initial Review, which stated, in part:

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

On January 31, 2007, the applicant removed the proposed uses of commercial and industrial from the application.

In reviewing applications, the Department may consider any relevant sources of information, including the following:

- recommendations by other state agencies
- any applicable basin program
- any applicable comprehensive plan or zoning ordinance
- the amount of water available
- the rate and duty for the proposed use
- pending senior applications and existing water rights of record
- designations of any critical groundwater areas
- the Scenic Waterway requirements of ORS 390.835
- applicable statutes, administrative rules, and case law
- any general basin-wide standard for flow rate and duty of water allowed
- the need for a flow rate and duty higher than the general standard
- any comments received

Findings of Fact

Morrow County Grain Grower's (MCGG's) well is senior to the well proposed under this application (SHER 50175) and MCGG's well is protected by the doctrine of prior appropriation. If any interference does occur, it will be limited by a condition of the permit for G-16663, if one is issued, which states in part:

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or

- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The Deschutes Basin Program allows IRRIGATION USE, STORAGE OF GROUND WATER FOR MULTIPLE PURPOSE, AND POND MAINTENANCE.

A WELL (SHER 50175) IN SPANISH HOLLOW BASIN is not within or above a State Scenic Waterway.

Groundwater Findings Under OAR 690-09

The Department determined, consistent with OAR 690-09-0040(4), that the proposed ground water use will not have the potential for substantial interference with the nearby surface water sources.

In making this determination, the Department considered whether:

- (a) There is a hydraulic connection from the proposed well(s) to any surface water sources.
- (b) The point of appropriation is a horizontal distance less than one-fourth mile from the surface water source;
- (c) The rate of appropriation is greater than five cubic feet per second, if the point of appropriation is a horizontal distance less than one mile from the surface water source;
- (d) The rate of appropriation is greater than one percent of the pertinent adopted minimum perennial streamflow or instream water right with a senior priority date, if one is applicable, or of the discharge that is equaled or exceeded 80 percent of time, as determined or estimated by the Department, and if the point of appropriation is a horizontal distance less than one mile from the surface water source;
- (e) The ground water appropriation, if continued for a period of 30 days, would result in stream depletion greater than 25 percent of the rate of appropriation, if the point of appropriation is a horizontal distance less than one mile from the surface water source.

According to the Department's rules, the potential for substantial interference is assumed if (a) and either (b) or (c) or (d) or (e) are met. For this application, the Department determined that there is no potential for substantial interference, because either (a) is not met, or (b), (c), (d) or (e) are not met, or both.

An assessment of groundwater availability has been completed by the Department's Groundwater/Hydrology section. A copy of this assessment is in the file. Water will, if properly conditioned, avoid injury to existing rights and the resource.

The Department finds that the amount of water requested, 3.0 CFS AND 2.5 AF, are acceptable.

The proposed well is not within a designated critical ground water area.

Conclusions of Law

Under the provisions of ORS 537.621, the Department must presume that a proposed use will ensure the preservation of the public welfare, safety and health if the proposed use is allowed in the applicable basin program established pursuant to ORS 536.300 and 536.340 or given a preference under ORS 536.310(12), if water is available, if the proposed use will not injure other water rights and if the proposed use complies with rules of the Water Resources Commission.

The proposed use requested in this application is allowed in the Deschutes Basin Plan, or a preference for this use is granted under the provisions of ORS 536.310(12).

Water is available for the proposed use.

The proposed use will not injure other water rights.

The proposed use complies with other rules of the Water Resources Commission not otherwise described above.

The proposed use complies with the State Agency Agreement for land use.

No proposed flow rate and duty of water higher than the general basin-wide standard is needed.

For these reasons, the required presumption has been established.

Under the provisions of ORS 537.621, once the presumption has been established, it may be overcome by a preponderance of evidence that either:

- (a) One or more of the criteria for establishing the presumption are not satisfied; or
- (b) The proposed use would not ensure the preservation of the public welfare, safety and health as demonstrated in comments, in a protest . . . or in a finding of the department that shows:
 - (A) The specific aspect of the public welfare, safety and health under ORS 537.525 that would be impaired or detrimentally affected; and
 - (B) Specifically how the identified aspect of the public welfare, safety and health under ORS 537.525 would be impaired or be adversely affected.

In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use would impair or be detrimental to the public interest.

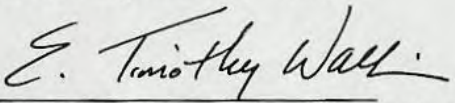
The Department therefore concludes that water is available in the amount necessary for the proposed use; the proposed use will not result in injury to existing water rights; and the proposed use would ensure the preservation of the public welfare, safety and health as described in ORS 537.525.

When issuing permits, ORS 537.628(1) authorizes the Department to include limitations and conditions which have been determined necessary to protect the public welfare, safety, and health. The attached draft permit is conditioned accordingly.

Recommendation

The Department recommends that the attached draft permit be issued with conditions.

DATED April 3, 2007

 *for*
Phillip C. Ward, Director
Water Resources Department

*If you have any questions,
please check the information
box on the last page for the
appropriate names and
phone numbers.*

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), you can protest this proposed final order. Protests must be received in the Water Resources Department no later than **May 18, 2007**. Protests must be in writing, and must include the following:

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;

- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the protest fee of \$250 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- *If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.*

Requests for Standing

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), persons other than the applicant who support a proposed final order can request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order.

Requests for standing must be received in the Water Resources Department no later than **May 18, 2007**. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;
- A statement that the requester supports the proposed final order as issued;
- A detailed statement of how the requester would be harmed if the proposed final order is modified; and
- A standing fee of \$50.00. If a hearing is scheduled, an additional fee of \$200.00 must be submitted along with a request for intervention.

After the protest period has ended, the Director will either issue a final order or schedule a contested case hearing. The contested case hearing will be scheduled only if a protest has been submitted and either:

- upon review of the issues, the director finds that there are significant disputes related to the proposed use of water, or
- the applicant requests a contested case hearing within 30 days after the close of the protest period.

This document was prepared by Jeana Eastman. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0859.

If you have questions about how to file a protest or a request for standing, please refer to the respective sections in this Proposed Final Order entitled "Protests" and "Requests for Standing". If you have previously filed a protest and want to know its status, please contact Mike Reynolds at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to:

Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF SHERMAN

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

BARNETT ESTATE PARTNERSHIP
PO BOX 148
WASCO, OR 97065

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16663

SOURCE OF WATER: A WELL (SHER 50175) IN SPANISH HOLLOW BASIN

PURPOSE OR USE: IRRIGATION USE ON 606.0 ACRES, STORAGE OF GROUND WATER
IN POND 1 FOR MULTIPLE PURPOSE, AND POND MAINTENANCE OF POND 1 AND POND
2 (PERMIT R-14396)

MAXIMUM RATE: 3.0 CUBIC FEET PER SECOND (CFS), FURTHER LIMITED TO 0.042
CFS FOR POND MAINTENANCE

MAXIMUM VOLUME: 2.5 ACRE FEET OF STORAGE IN POND 1

PERIOD OF USE: IRRIGATION - MARCH 1 THROUGH OCTOBER 31
POND MAINTENANCE - YEAR ROUND
STORAGE - YEAR ROUND

DATE OF PRIORITY: APRIL 19, 2006

WELL LOCATION: SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 4, T1N, R17E, W.M.; 1830 FEET SOUTH &
60 FEET EAST FROM NW CORNER, SECTION 4

POND 1: SW $\frac{1}{4}$ NW $\frac{1}{4}$, SECTION 4, T1N, R17E, W.M.; 2180 FEET SOUTH & 130
FEET EAST FROM NW CORNER, SECTION 4

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 and
3.0 acre-feet for each acre irrigated during the irrigation season of
each year.

THE PLACE OF USE IS LOCATED AS FOLLOWS:

GOVT LOT: 3	(NE ¼ NW ¼)	35.6 ACRES
GOVT LOT: 4	(NW ¼ NW ¼)	39.7 ACRES
	SW ¼ NW ¼	40.0 ACRES
	SE ¼ NW ¼	40.0 ACRES

SECTION 3

GOVT LOT: 1	(NE ¼ NE ¼)	39.7 ACRES	
GOVT LOT: 2	(NW ¼ NE ¼)	39.7 ACRES	
	SW ¼ NE ¼	38.0 ACRES	
	SE ¼ NE ¼	39.5 ACRES	
GOVT LOT: 3	(NE ¼ NW ¼)	39.7 ACRES	
GOVT LOT: 4	(NW ¼ NW ¼)	37.4 ACRES	POND MAINTENANCE
	SW ¼ NW ¼	34.5 ACRES	POND MAINTENANCE
	SE ¼ NW ¼	37.0 ACRES	

SECTION 4

TOWNSHIP 1 NORTH, RANGE 17 EAST, W.M.

NE ¼ SE ¼	27.0 ACRES
NW ¼ SE ¼	39.1 ACRES
SW ¼ SE ¼	39.1 ACRES
SE ¼ SE ¼	40.0 ACRES

SECTION 33

TOWNSHIP 2 NORTH, RANGE 17 EAST, W.M.

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.

The well shall produce groundwater only from the basalt groundwater reservoir.

The Department requires the water user to measure and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

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 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.

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.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2011. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2007

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

SCALE: 1"=1320'

APPLICATION No. _____

PERMIT No. _____

IN THE NAME OF:

BARNETT ESTATE PARTNERSHIP

DATE: APRIL 5, 2006

CONSULTING ENGINEERS

409 LINCOLN STREET

THE DALLES, OREGON 97058

541-296-9177 FAX 541-296-6657

Certified Water Right Examiner
#132

Larry M. Toll
November 19, 1987

STATE OF OREGON

EXPIRES: 06/30/06

RECEIVED

APR 19 2006

WATER RESOURCES DEPT
SALEM, OREGON

NOTE:

"THIS MAP IS NOT INTENDED TO
PROVIDE DIMENSIONS OR LOCATIONS
OF PROPERTY OWNERSHIP LINES."

W.O. #11484wr

⊕ EXISTING WELL, 1830' S. & 60' E. OF NW COR. SEC. 4

 PROPOSED IRRIGATION AREA = 606.1 ACRES

EXISTING INDUSTRIAL & COMMERCIAL AREA

PROPOSED INDUSTRIAL & COMMERCIAL AREA

EXISTING RESIDENTIAL AREA

PROPOSED IRRIGATION MAIN

POND #1 = 2180' SOUTH AND 130' EAST FROM
THE NW CORNER, SECTION 4

POND #2 = 1220' SOUTH AND 150' EAST FROM
THE NW CORNER, SECTION 4

app no G-16663

Jeana Eastman

From: Mike Zwart
Sent: Thursday, April 19, 2007 9:40 AM
To: Jeana Eastman
Cc: Larry Toll (E-mail)
Subject: RE: Application G-16663

See the responses below.

Michael Zwart
Oregon Water Resources Department
503-986-0844

From: Jeana Eastman
Sent: Thursday, April 19, 2007 7:58 AM
To: Mike Zwart
Subject: FW: Application G-16663

Hi Mike,

Can you help answer Larry Toll's questions about condition 7n contained in the PFO for G-16663 in the name of Barnett Estate Partnership?

Thanks,
-jeana

<>8<> <>8<> <>8<> <>8<> <>8<> <>8<> <>8<> <>8<> <>8<> <>8<> <>8<> <>8<>
Jeana Eastman
Water Rights Caseworker
Water Rights Section
Direct 503-986-0859
Fax 503-986-0901
Oregon Water Resources Dept.
725 Summer St NE, Suite A
Salem, OR 97301-1266
Front Desk 503-986-0900
<http://oregon.gov/OWRD/>

Messages to and from this e-mail address may be available to the public under Oregon law.

From: Larry Toll [mailto:LToll@tennesoneng.com]
Sent: Wednesday, April 18, 2007 4:38 PM
To: Jeana Eastman
Cc: Hilderbrand, Donald W
Subject: Application G-16663

Jeana,

On Proposed Final Order for App G-16663 there was condition D under the Groundwater decline conditions that says if "Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with a senior priority."

4/19/2007

This was supported by the neighboring property.

What does this mean in this case? My concerns in this case are because there are 2 wells that are relatively close (a couple hundred feet) to each other.

Hydraulic interference is caused by pumping one or more wells which lowers the head in other wells. So this will only occur during the irrigation season, when the wells are pumping. If a neighbor complains that his well is impacted and it is verified that the interference is 25+ feet, then the Department may regulate based on priority if there is no other recourse.

The other conditions use Annual water level measurement data to show decline over some period of time. Will the neighboring well owners be required to provide annual water level measurement to show the decline?

The short answer is no; THIS permit condition does not require data to be collected by others. However, I may need more information about the neighboring wells you are concerned about. Are the neighboring wells permitted and do those permits include measurement and decline conditions? If they are exempt-use wells or are senior permitted wells, it is unlikely that those would require measuring. If a neighboring well owner applies for and receives a new permit, that would likely include similar conditions, assuming the proposal is for the same source of ground water. Department staff would likely be collecting the necessary data to determine whether hydraulic interference is occurring and, if so, what the magnitude of that is.

Is this only a decline in the static water level based on March to March measurements or could this occur in the middle of an irrigation season?

The permittee is required only to measure in March. Comparisons of these March measurements will be used to determine annual water-level fluctuations.

Does this include any instantaneous drop in water level during the pumping of the well under App G-16663?

Yes, see my answers to the other questions above. The permittee is not required to collect data other than static water-level data in March. If pumping season data are to be collected, it would likely be the result of a complaint from a neighbor or a concern raised by the permittee or Watermaster. Those data would likely be collected by staff, as stated above.

Can the standard condition that allows 2 or more users to agree to a rotation overcome this condition D?

Yes, see the standard conditions in the PFO.

Thank you for your assistance with this application.

Larry

Larry Toll, P.E., W.R.E.
Tenneson Engineering Corporation
409 Lincoln Street
The Dalles, OR 97058
Phone: 541-296-9177
Fax: 541-296-6657
E-mail: ltoll@tennesoneng.com

Jeana Eastman

From: Larry Toll [LToll@tennesoneng.com]
Sent: Wednesday, April 18, 2007 4:38 PM
To: Jeana Eastman
Cc: Hilderbrand, Donald W
Subject: Application G-16663

Jeana,

On Proposed Final Order for App G-16663 there was condition D under the Groundwater decline conditions that says if "Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with a senior priority." This was supported by the neighboring property.

What does this mean in this case? My concerns in this case are because there are 2 wells that are relatively close (a couple hundred feet) to each other.

The other conditions use Annual water level measurement data to show decline over some period of time. Will the neighboring well owners be required to provide annual water level measurement to show the decline?

Is this only a decline in the static water level based on March to March measurements or could this occur in the middle of an irrigation season?

Does this include any instantaneous drop in water level during the pumping of the well under App G-16663?

Can the standard condition that allows 2 or more users to agree to a rotation overcome this condition D?

Thank you for your assistance with this application.

Larry

Larry Toll, P.E., W.R.E.
Tenneson Engineering Corporation
409 Lincoln Street
The Dalles, OR 97058
Phone: 541-296-9177
Fax: 541-296-6657
E-mail: ltoll@tennesoneng.com

4/19/2007

ADDENDUM TO THE APRIL 3, 2007, PUBLIC NOTICE OF WATER USE REQUESTS

Application G-16663 Don Hilderbrand, Barnett Estate Partnership

On April 3, 2007, the Department issued a Proposed Final Order (PFO) for application G-16663 in the name of Don Hilderbrand, Barnett Estate Partnership. This application went on the Department's Public Notice on April 3, 2007, which omitted information for this application. We are re-noticing application G-16663 with the correct information. The comment deadline for this Proposed Final Order will now be 5 pm Friday, May 25, 2007.

App#	Basin	Source	Township/Range	County	Priority	Quantity	Stage	Status
G-16663	DON HILDERBRAND, BARNETT ESTATE PARTNERSHIP	PO BOX 148 WASCO OR	97065				PFO	2
	5 A WELL > SPANISH HOLLOW	1.00N 17.00E 4 NWSW	Sherman	04/19/2006	3.0		C	
	5 A RESERVOIR > SPANISH HOLLOW	1.00N 17.00E 4 NWSW	Sherman	04/19/2006	2.5		A	
Uses:	IR MP PM							

Mailing List for PFO Copies

Application #G-16663

PFO Date April 3, 2007

Original mailed to:

Applicant: BARNETT ESTATE PARTNERSHIP, PO BOX 148, WASCO, OR 97065

Copies sent to:

1. WRD - File # G-16663
2. Water Availability: Ken Stahr
3. Regional Well Inspector: NCR

Copies Mailed
By: <u> <i>JS</i> </u>
(SUPPORT STAFF)
on: <u> 4/3/07 </u>
(DATE)

PFO and Map Copies sent to:

4. WRD - Watermaster # 3
5. Regional Manager: NCR

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

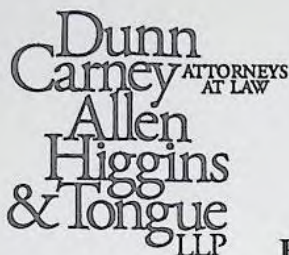
1. Larry Toll, CWRE #132
2. Dunn, Carney, Allen, Higgins, & Tongue, LLP; c/o Elizabeth Howard
851 SW Sixth Ave, Suite 1500, Portland OR 97204-1357

"\$10 LETTER" sent to Interested Persons who have not protested or paid for copies

Affected Landowners (include "Notice of Proposed Final Order--Affected Landowner"):

1. Sherman County Road Department, PO Box 365, Moro OR 97039

CASEWORKER : jme



February 13, 2007

**BY FACSIMILE: (503) 986-0901
And REGULAR MAIL**

ELIZABETH E. HOWARD

DIRECT DIAL
503.417.5514

E-MAIL
eeh@dunn-carney.com

ADDRESS
Suite 1500
851 S.W. Sixth Avenue
Portland, Oregon
97204-1357

Phone 503.224.6440
Fax 503.224.7324

INTERNET
www.dunn-carney.com

Jeana Eastman
Water Resources Department
725 Summer Street NE, Ste. A
Salem, OR 97301-1273

Re: Public Comments
Don Hilderbrand, Barnett Estate Partnership Ground Water
Application No. **G-16663**
Our File No. MOR1-2

Dear Ms. Eastman:

My office represents the Morrow County Grain Growers ("MCGG"), who are currently utilizing an exempt ground water right for commercial purposes in the area near the well at issue in the above-referenced application. As you may recall, MCGG previously submitted comments addressing injury concerns caused by hydraulic interference. Please see the attached letter, dated June 30, 2006, for more detail on these concerns.

MCGG has reviewed the Initial Review of Mr. Hilderbrand's application number G-16663. MCGG strongly supports and requests that the condition relating to declines remain in the proposed final order, final order, and ultimately, the permit issued to Don Hilderbrand/Barnett Estate Partnership.

More specifically, MCGG supports the following proposed condition for G-16663:

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur: . . .

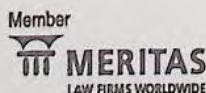
D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights.

RECEIVED

FEB 14 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

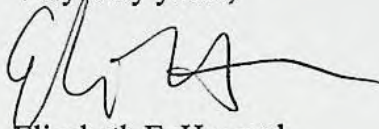


INDEPENDENT MEMBER OF MERITAS
WITH AFFILIATED OFFICES IN MORE THAN 250 CITIES AND 60 FOREIGN COUNTRIES

Jeana Eastman
February 13, 2007
Page 2

Thank you for your consideration of these comments. Please provide my office with the proposed final order for our review and comment.

Very truly yours,

A handwritten signature in black ink, appearing to be 'E. Howard', with a long horizontal flourish extending to the right.

Elizabeth E. Howard

EEH

Enclosure

cc: Client

DCAPDX_n409744_v1_WRD_Comments_on_G-16663.doc

RECEIVED

FEB 14 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

June 30, 2006

ELIZABETH E. HOWARD

DIRECT DIAL
503.417.5514

E-MAIL
eeh@dunn-carney.com

ADDRESS
Suite 1500
851 S.W. Sixth Avenue
Portland, Oregon
97204-1357

Phone 503.224.6440
Fax 503.224.7324

INTERNET
www.dunn-carney.com

VIA HAND DELIVERY

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Re: Comments on Application R-86559
Our File No. MOR1-2

Dear Sir or Madam:

This office represents Morrow County Grain Growers ("MCGG"). MCGG submits this letter pursuant to ORS 537.409(5). MCGG is a farmer's cooperative with its principal offices in Lexington, Oregon. MCGG also owns a branch store near the City of Wasco in Sherman County for which an artesian well is the only water source for domestic and fire protection. MCGG submits these comments in opposition to reservoir application R-86559 so as to ensure that MCGG's ground water right is not injured.

The MCGG well jeopardized by application R-86559 is an artesian groundwater right, with sufficient artesian pressure to run water throughout the store without need for more than a small pump. Don Hilderbrand, the applicant for reservoir application R-86559, is a rancher owning property adjacent to the MCGG branch store. Despite having knowledge of MCGG's existing artesian well, Hilderbrand drilled a well ("Hilderbrand well") which appears to be for purposes of irrigation and filling the subject reservoir. The Hilderbrand well is approximately 200 to 300 yards from MCGG's well.

The MCGG artesian well, drilled in 1997, is superior in priority to the water right being sought by Hilderbrand. See ORS 537.545(2) and (3). MCGG is concerned that should reservoir application R-86559 be granted and should the related groundwater application be approved, MCGG will be injured due to its inability to draw sufficient amounts of water from its well.

The Water Resources Department ("WRD") must evaluate reservoir application R-86559 for potential injury to existing water rights. See ORS 537.409(6). ORS 537.615, regarding permits for the appropriation of groundwater, also requires that the WRD conduct an injury evaluation. See ORS 537.621(1). In determining injury, the WRD must consider whether water is available for the proposed use given the status of other existing water rights.

RECEIVED

FEB 14 2007

WATER RESOURCES DEPT
SALEM, OREGON

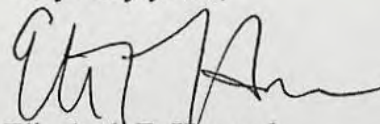
MCGG is concerned that granting reservoir application R-86559 and the related groundwater application will substantially impact the availability and amount of water which MCGG is able to use.

Well Log Reports show that the completed depth of the Hilderbrand well is approximately 142 feet. MCGG's well is at the completed depth of 140 feet. (A copy of the Well Log Reports are attached to this correspondence as Exhibit "A".) Test operations of the pump for the Hilderbrand well resulted in the branch store losing all of its water. Thus, not only does it appear that the wells are supplied by the same aquifer, but there is also a high likelihood that the MCGG water right will be injured by the Hilderbrand well and the associated reservoir application.

In addition to the above, attached as Exhibit "B" are pictures of the "drainage" that Hilderbrand apparently also intends to use to supply water to the subject reservoir. To the extent it can be called a water course, these pictures, taken in May 2006, depict its dryness. The Hilderbrand application states that the source for the reservoir will be an unnamed drainage that is a tributary to Spanish Hollow creek. While it is unclear whether the WRD has previously assessed whether the Spanish Hollow stream is over-appropriated, given the state of these conditions in May, it is likely that this "stream" is highly over-appropriated. This issue should be definitively resolved prior to any approval of reservoir application R-86559.

For the reasons set forth above, granting application R-86559 could severely impact the amount of ground water available for use by MCGG. Further, the water course that this application appears to be relying on as its source is dry during the wet times of the year. MCGG therefore requests that reservoir application R-86559 be denied or conditioned so as to ensure that the use will not injure MCGG and so as to ensure it is consistent with Oregon law.

Very truly yours,



Elizabeth E. Howard

EEH:mrw

cc: Client (w/encls.)

Attachments

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FEB 14 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

WELL I.D.# LO7822

SHER
50058

NOV - 7 1997

WATER RESOURCES DEPT (START CARD) # 106926
Form. SALEM OREGON

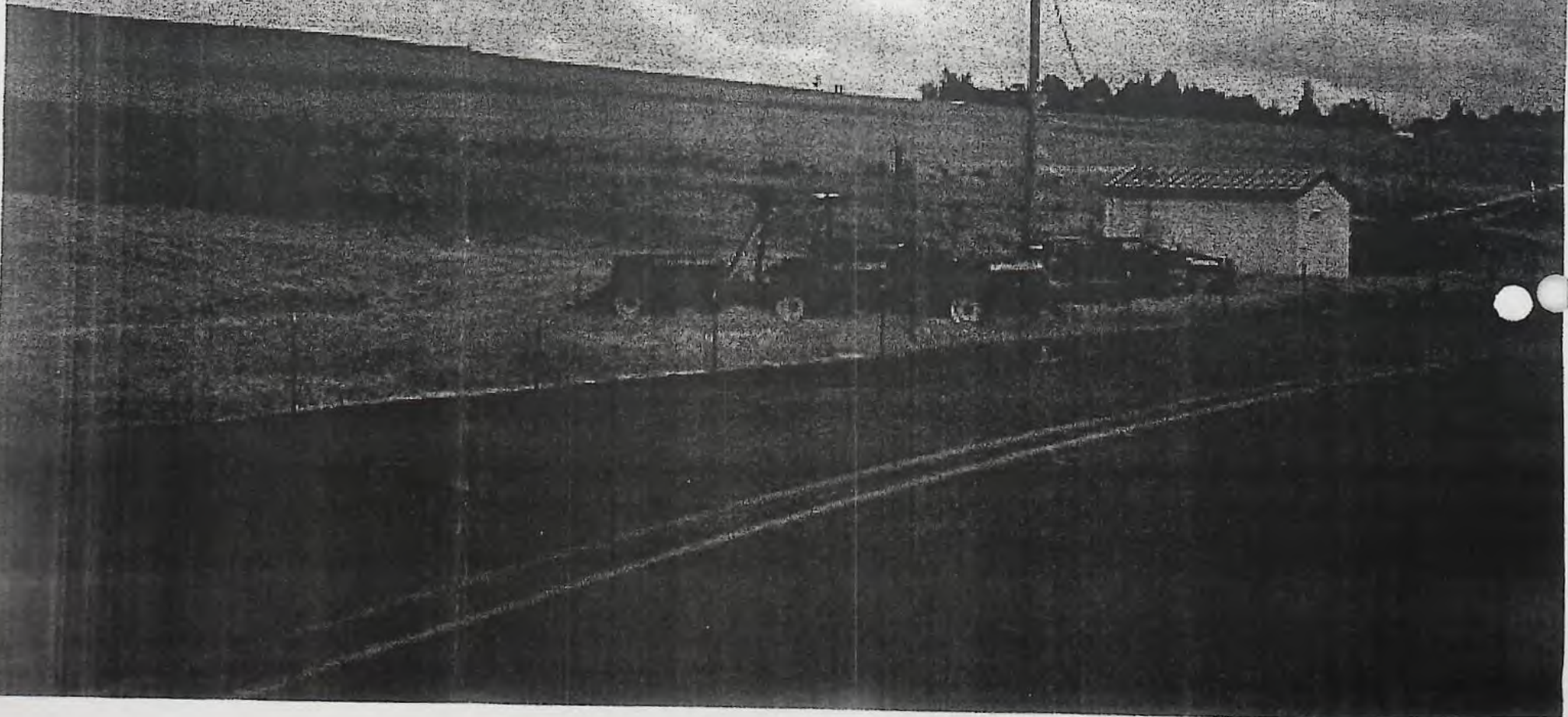
Instructions for completing this report are on the last page of this form.

ORIGINAL & FIRST COPY-WATER RESOURCES DEPARTMENT SECOND COPY-CONSTRUCTOR THIRD COPY-CUSTOMER

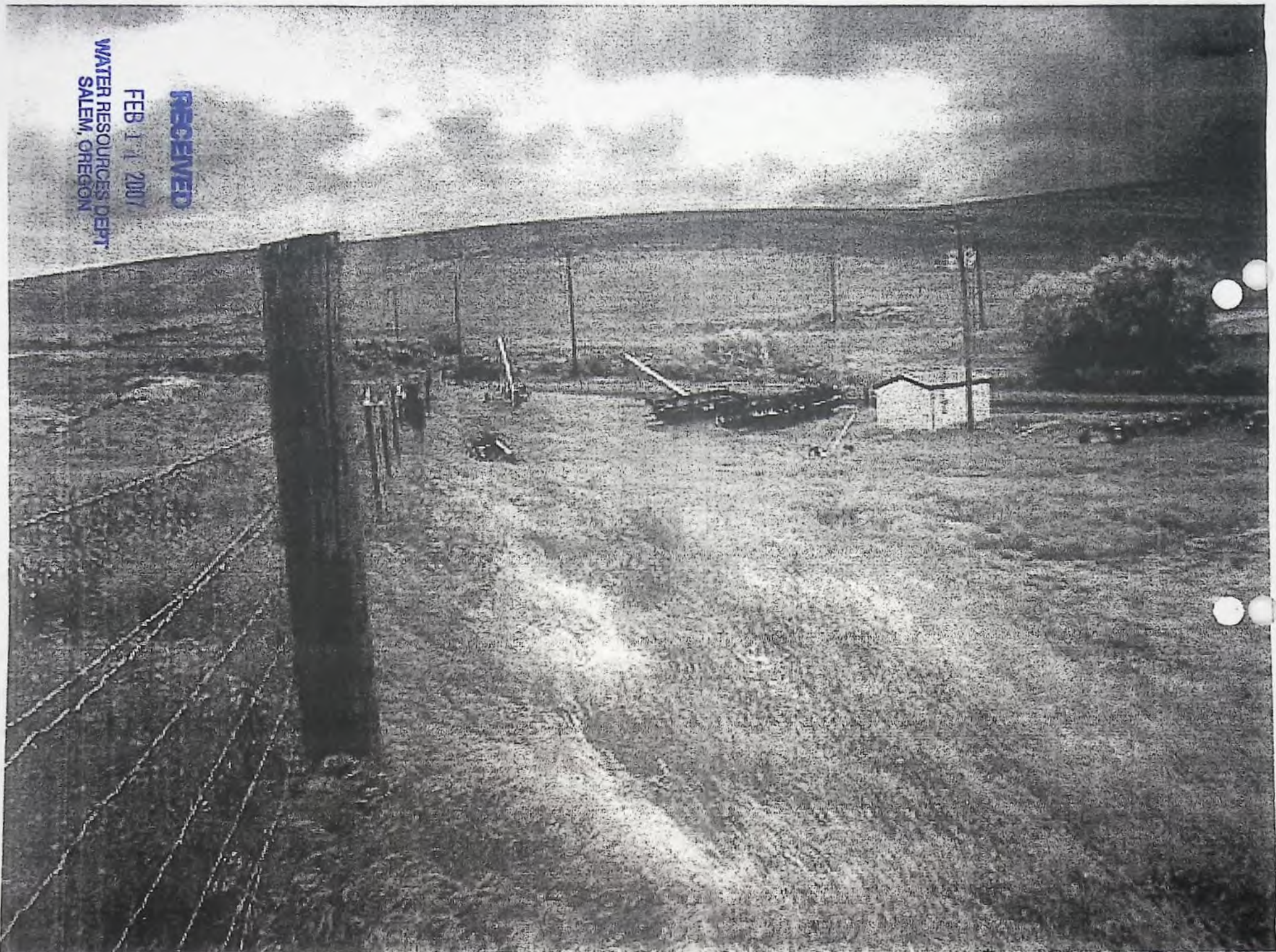
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**WATER RESOURCES DEPT
SALEM, OREGON**



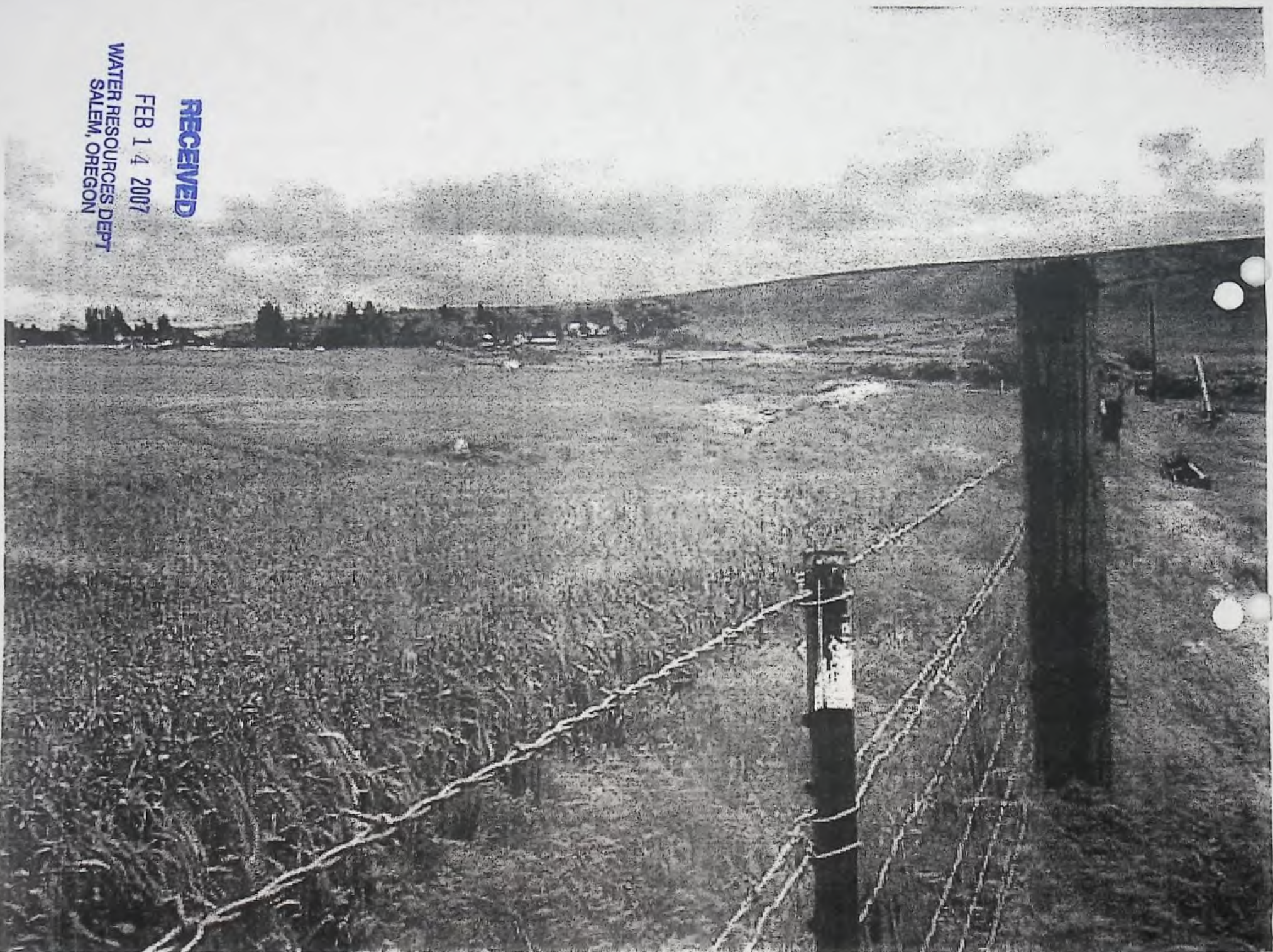
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SALEM, OREGON



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FEB 14 2007

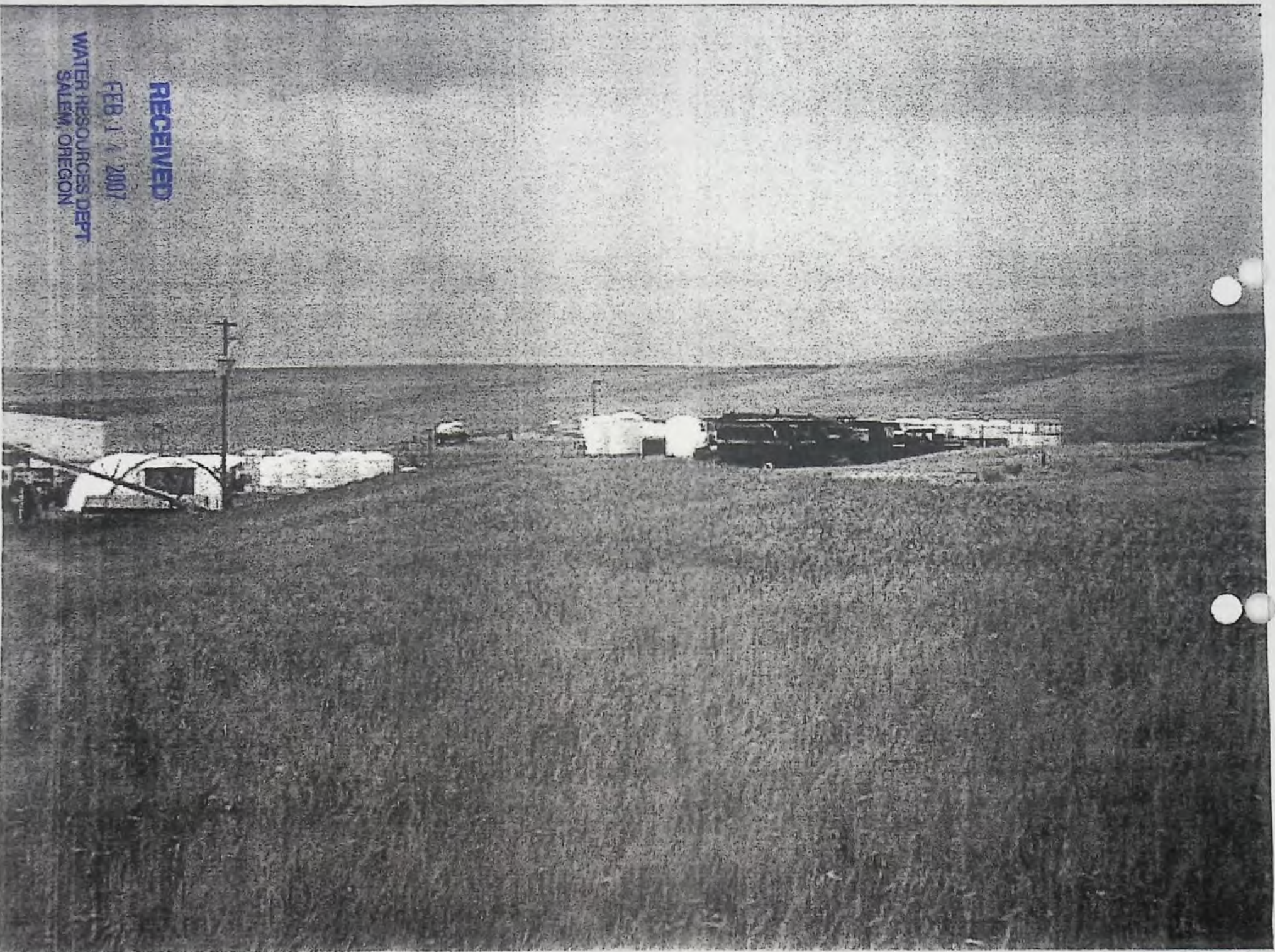
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SALEM, OREGON



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WATER RESOURCES DEPT
SALEM, OREGON



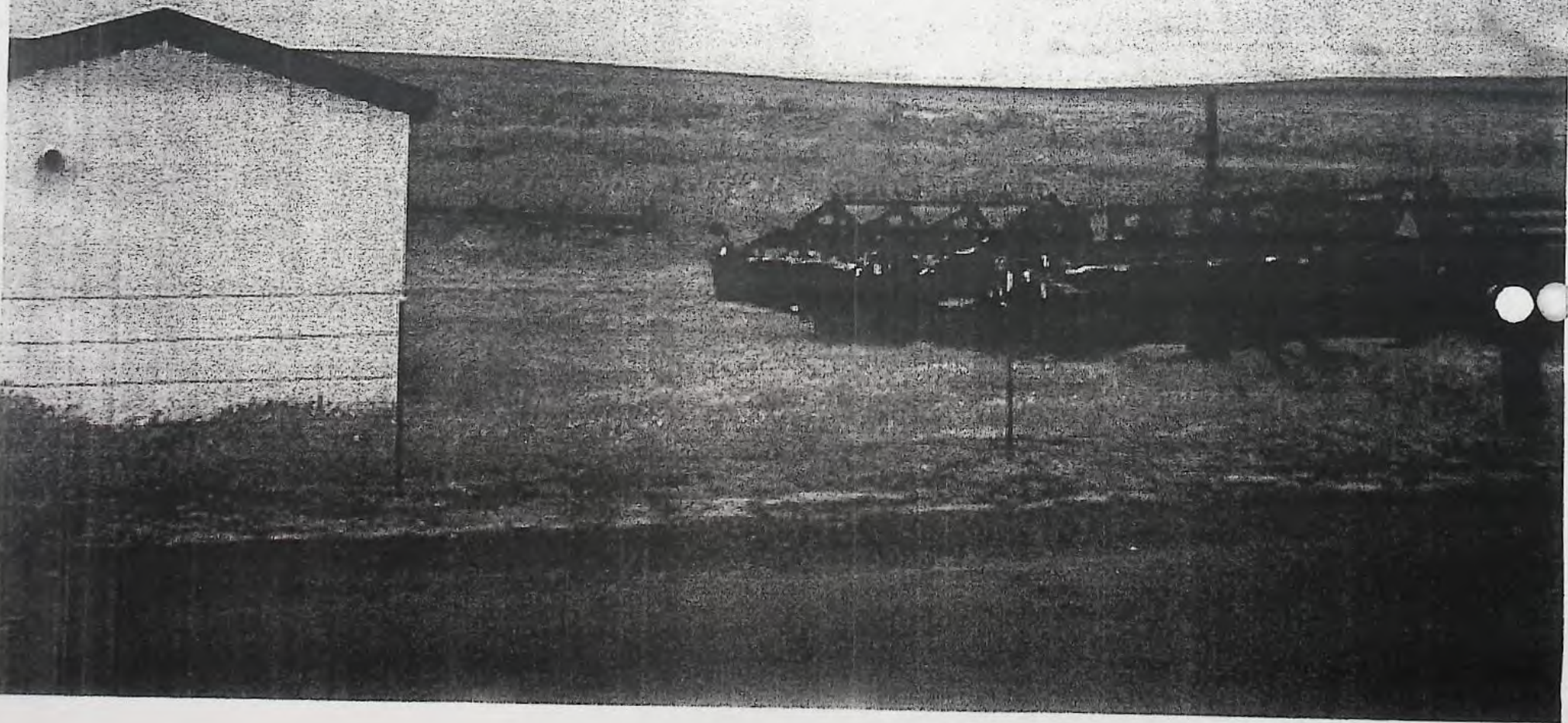
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WATER RESOURCES DEPT
SALEM, OREGON



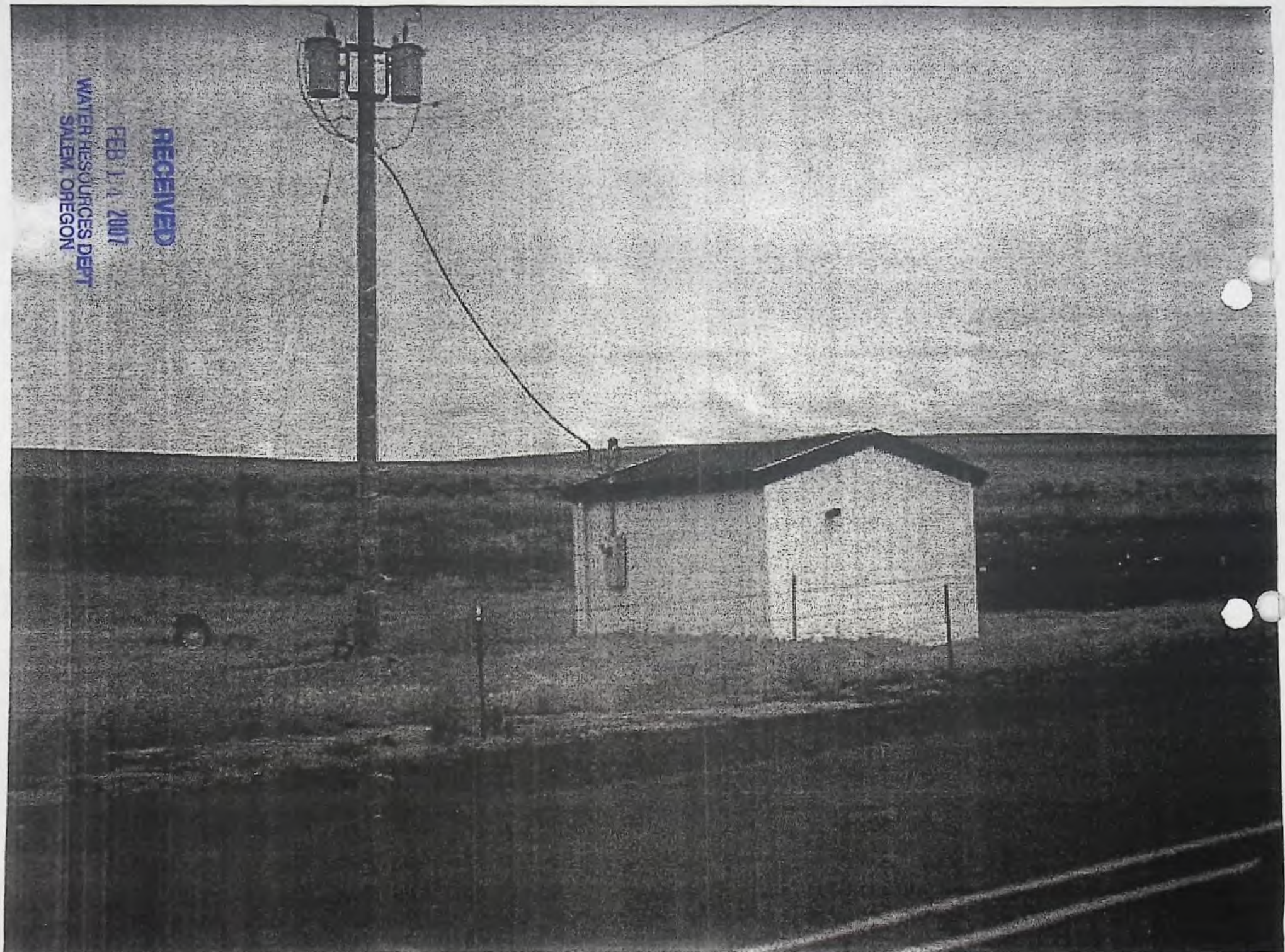
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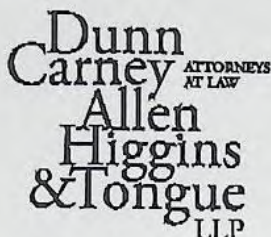
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SALEM, OREGON



**FACSIMILE TRANSMITTAL****Date:** February 13, 2007**Pages:** 14
(including cover page)**To:** Jeana Eastman**Tele No.:** 1(503) 936-0900**Fax No.:** 1(503) 986-0901**Company:** Water Resources Department**Client Mtr.:** MOR1-2 - Morrow County Grain Growers**Re:** Don Hilderbrand, Barnett Estate Partnership Ground Water Application No. G-16663**Comments:** Public Comment attached**From:** Elizabeth Howard/ Carol Slimm**Direct Dial:** (503) 417-5514**Original Being Transmitted**☐

Not sent

☐

Overnight mail

☒

First-Class mail

☐

Other

851 SW Sixth Avenue, Suite 1500 ■ Portland, Oregon 97204-1357 ■ 503.224.6440 ■ FAX 503.224.7324

DCAPDX_n409804_v1_Fax_Jeana_Eastman_WRD_.doc

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February 13, 2007

BY FACSIMILE: (503) 986-0901
And REGULAR MAIL

ELIZABETH E. HOWARD

DIRECT DIAL
503.417.5514

E-MAIL
eeh@dunn-carney.com

ADDRESS
Suite 1500
851 S.W. Sixth Avenue
Portland, Oregon
97204-1357

Phone 503.224.6440
Fax 503.224.7324

INTERNET
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Jeana Eastman
Water Resources Department
725 Summer Street NE, Ste. A
Salem, OR 97301-1273

Re: Public Comments
Don Hilderbrand, Barnett Estate Partnership Ground Water
Application No. G-16663
Our File No. MOR1-2

Dear Ms Eastman:

My office represents the Morrow County Grain Growers ("MCGG"), who are currently utilizing an exempt ground water right for commercial purposes in the area near the well at issue in the above-referenced application. As you may recall, MCGG previously submitted comments addressing injury concerns caused by hydraulic interference. Please see the attached letter, dated June 30, 2006, for more detail on these concerns.

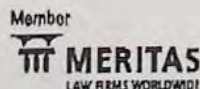
MCGG has reviewed the Initial Review of Mr. Hilderbrand's application number G-16663. MCGG strongly supports and requests that the condition relating to declines remain in the proposed final order, final order, and ultimately, the permit issued to Don Hilderbrand/Barnett Estate Partnership

More specifically, MCGG supports the following proposed condition for G-16663:

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur: . . .

D Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights.

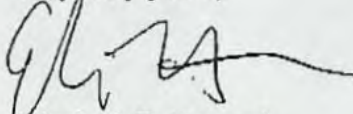


INDEPENDENT MEMBER OF MERITAS
WITH AFFILIATED OFFICES IN MORE THAN 250 CITIES AND 60 FOREIGN COUNTRIES

Jeana Eastman
February 13, 2007
Page 2

Thank you for your consideration of these comments. Please provide my office with the proposed final order for our review and comment.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Elizabeth E. Howard', with a long horizontal flourish extending to the right.

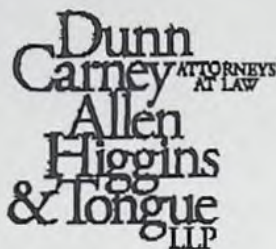
Elizabeth E. Howard

EEH

Enclosure

cc: Client

DCAPDX_n4097-4_v1_WRD_(comments_on_G-16663).doc



June 30, 2006

ELIZABETH E. HOWARD

DIRECT DIAL
503.417.5514E-MAIL
eeh@dunn-carney.comADDRESS
Suite 1500
851 S.W. Sixth Avenue
Portland, Oregon
97204-1357Phone 503.224.8440
Fax 503.224.7324INTERNET
www.dunncarney.com**VIA HAND DELIVERY**Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301Re: Comments on Application R-86559
Our File No. MOR1-2

Dear Sir or Madam:

This office represents Morrow County Grain Growers ("MCGG"). MCGG submits this letter pursuant to ORS 537.409(5). MCGG is a farmer's cooperative with its principal offices in Lexington, Oregon. MCGG also owns a branch store near the City of Wasco in Sherman County for which an artesian well is the only water source for domestic and fire protection. MCGG submits these comments in opposition to reservoir application R-86559 so as to ensure that MCGG's ground water right is not injured.

The MCGG well jeopardized by application R-86559 is an artesian groundwater right, with sufficient artesian pressure to run water throughout the store without need for more than a small pump. Don Hilderbrand, the applicant for reservoir application R-86559, is a rancher owning property adjacent to the MCGG branch store. Despite having knowledge of MCGG's existing artesian well, Hilderbrand drilled a well ("Hilderbrand well") which appears to be for purposes of irrigation and filling the subject reservoir. The Hilderbrand well is approximately 200 to 300 yards from MCGG's well.

The MCGG artesian well, drilled in 1997, is superior in priority to the water right being sought by Hilderbrand. See ORS 537.545(2) and (3). MCGG is concerned that should reservoir application R-86559 be granted and should the related groundwater application be approved, MCGG will be injured due to its inability to draw sufficient amounts of water from its well.

The Water Resources Department ("WRD") must evaluate reservoir application R-86559 for potential injury to existing water rights. See ORS 537.409(5). ORS 537.615, regarding permits for the appropriation of groundwater, also requires that the WRD conduct an injury evaluation. See ORS 537.621(.). In determining injury, the WRD must consider whether water is available for the proposed use given the status of other existing water rights.

Oregon Water Resources Department
June 30, 2006
Page 2

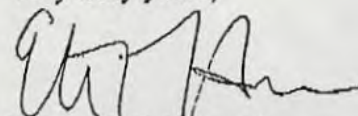
MCGG is concerned that granting reservoir application R-86559 and the related groundwater application will substantially impact the availability and amount of water which MCGG is able to use.

Well Log Reports show that the completed depth of the Hilderbrand well is approximately 142 feet. MCGG's well is at the completed depth of 140 feet. (A copy of the Well Log Reports are attached to this correspondence as Exhibit "A".) Test operations of the pump for the Hilderbrand well resulted in the branch store losing all of its water. Thus, not only does it appear that the wells are supplied by the same aquifer, but there is also a high likelihood that the MCGG water right will be injured by the Hilderbrand well and the associated reservoir application.

In addition to the above, attached as Exhibit "B" are pictures of the "drainage" that Hilderbrand apparently also intends to use to supply water to the subject reservoir. To the extent it can be called a water course, these pictures, taken in May 2006, depict its dryness. The Hilderbrand application states that the source for the reservoir will be an unnamed drainage that is a tributary to Spanish Hollow creek. While it is unclear whether the WRD has previously assessed whether the Spanish Hollow stream is over-appropriated, given the state of these conditions in May, it is likely that this "stream" is highly over-appropriated. This issue should be definitively resolved prior to any approval of reservoir application R-86559.

For the reasons set forth above, granting application R-86559 could severely impact the amount of ground water available for use by MCGG. Further, the water course that this application appears to be relying on as its source is dry during the wet times of the year. MCGG therefore requests that reservoir application R-86559 be denied or conditioned so as to ensure that the use will not injure MCGG and so as to ensure it is consistent with Oregon law.

Very truly yours,



Elizabeth E. Howard

EEH:mrw

cc: Client (v./encls.)

Attachments

005AUGRPW1:EDUNN.CA 1 POST1 CLIENTS:405972 1

RECEIVED

WELL I.D.# 107022

NOV - 7 1997

STATE OF OREGON
WATER SUPPLY WELL REPORT
(as required by ORS 337.765)WATER RESOURCES DEPT (START CARD) # 106926

Instructions for completing this report are on the last page of this form.

SALEM, OREGON

(1) OWNER: Well Number _____
Name Moro County Grain Growers
Address 17210 Old Hwy 97
City Moro Wasco State Oregon Zip _____

(2) TYPE OF WORK

☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:

☒ Rotary Air ☐ Rotary Mud ☐ Crib ☐ Auger☐ Other _____

(4) PROPOSED USE:

☐ Domestic ☐ Community ☐ Industrial ☐ Irrigation☐ Thermal ☐ Injection ☐ Livestock ☒ Other Industrial

(5) BORE HOLE CONSTRUCTION:

Special Construction approval ☐ Yes ☒ No Depth of Completed Well 140 ft.Explosives used ☐ Yes ☒ No Type _____ Amount _____

Diameter			SEAL			Sacks or pounds	
From	To	Material	From	To	Material	From	To
12	0	38	cement	3	38	21	
			Bentonite	0	3	2	
8	38	137	Cement	38	137	64	
			Bentonite	38	137	64	

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E☐ Other Pumped

Backfill placed from _____ ft. to _____ ft. Material _____

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

(6) CASING/LINER:

Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	8	+2	38	25	☒	☐	☐
	6	+2	80	25	☒	☐	☐
					☐	☐	☐
					☐	☐	☐
Liner:					☐	☐	☐
					☐	☐	☐

Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:

From		To	Type	Material	Slot size	Number	Dia. hole	Tele. pipe size	Casing	Liner
									☐	☐
									☐	☐
									☐	☐
									☐	☐

(8) WELL TESTS: Minimum testing time is 1 hour

Pump	Drill	Air	Flowing
☐	☐	☒	☐
Yield gal/min	Drawdown	Drill stem at	Time
180	0	0	1 hr.
1000+	0	140	1 hr.

Temperature of water 58 Depth Artesian Flow Found 137Was 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: 50-55

(9) LOCATION OF WELL by legal description:

County Sherman Latitude _____ Longitude _____
Township 1N N or S Range 17E E or W. WM.
Section 5 NE 1/4 NE 1/4
Tax Lot 900 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) _____
17210 Old Hwy 97 Masco, Oregon

(10) STATIC WATER LEVEL:

+39 ft. below land surface. Date 23 Oct 97
Artesian pressure 17 lb. per square inch. Date 23 Oct 97

(11) WATER BEARING ZONES:

Depth at which water was first found 50-55

From	To	Estimated Flow Rate	SWL
50	55	80	30
137	140	1000	+39

(12) WELL LOG:

Ground Elevation 1520

Material	From	To	SWL
Soil	0	15	
Rock brown	15	28	
Basalt gray	28	48	
Petrified wood WB	48	55	30
Basalt gray	55	137	
Basalt gray cracked WB	137	140	+39

Date started 14 Oct 97 Completed 23 Oct 97

(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 water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.

WWC Number _____

Signed _____ Date _____

(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 water supply well construction standards. This report is true to the best of my knowledge and belief.

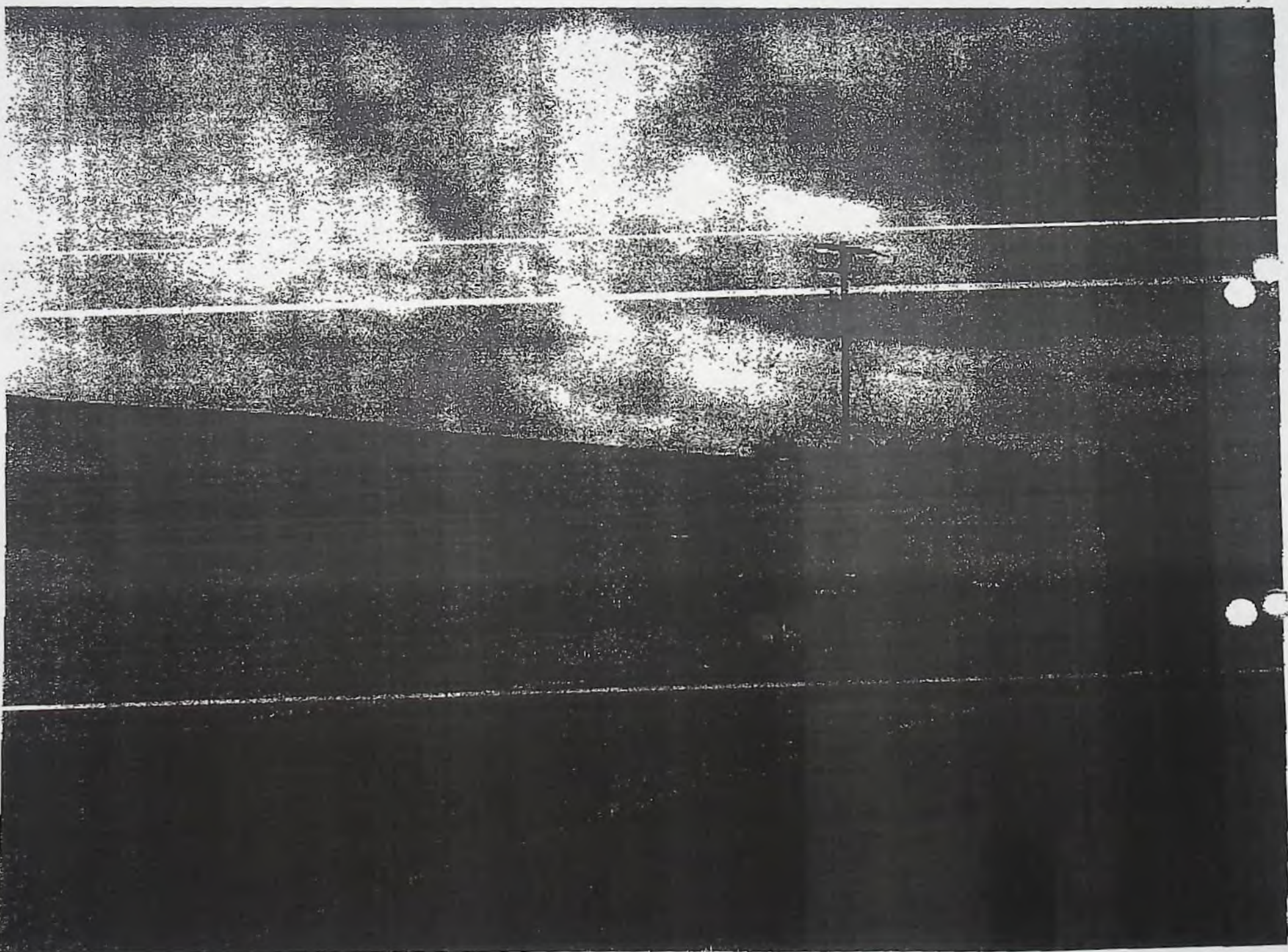
WWC Number 606Signed Richard M. Murray Date 27 Oct 97

ORIGINAL & FIRST COPY-WATER RESOURCES DEPARTMENT SECOND COPY-CONSTRUCTOR THIRD COPY-CUSTOMER

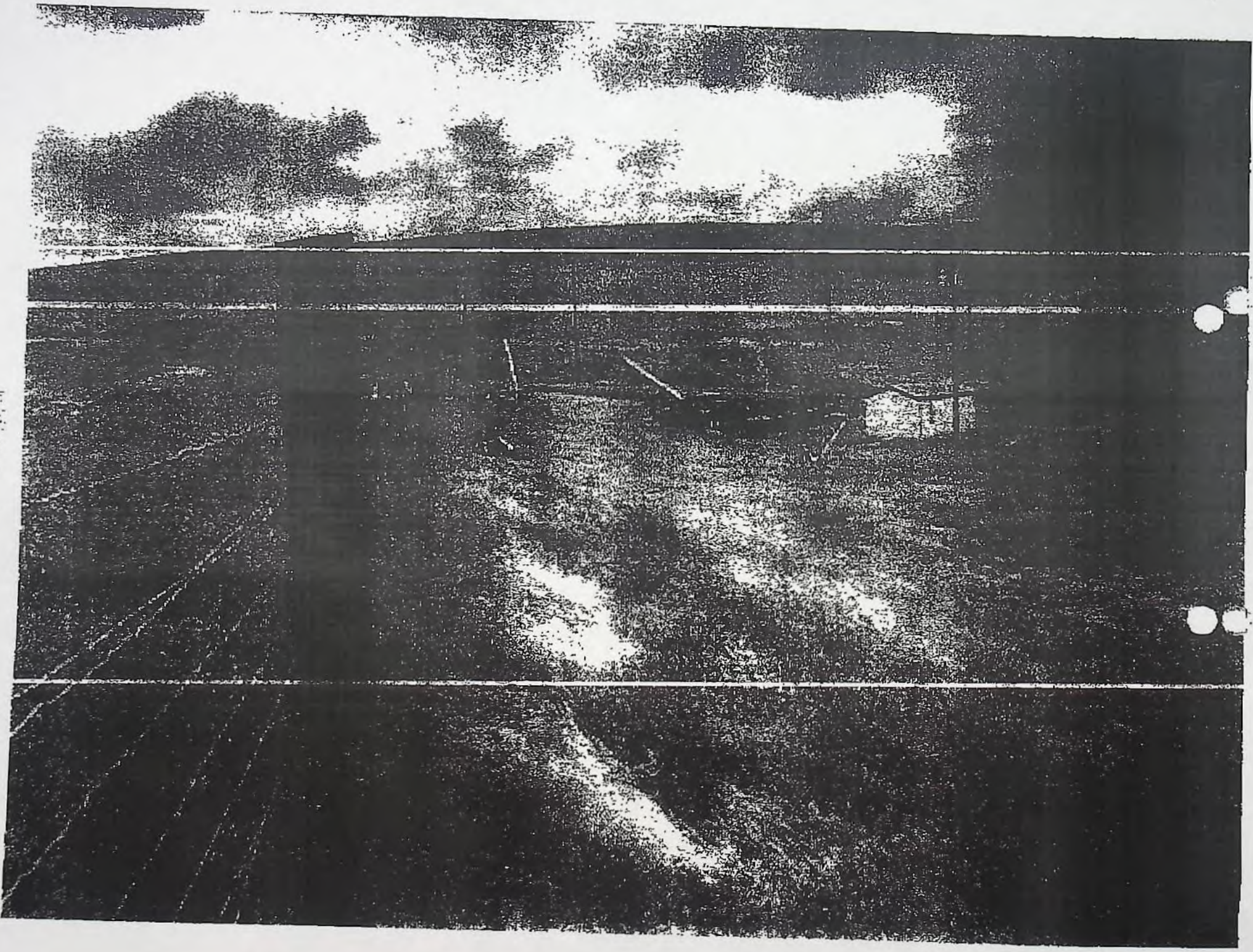
02/13/2007 14:44 FAX 503 224 7324

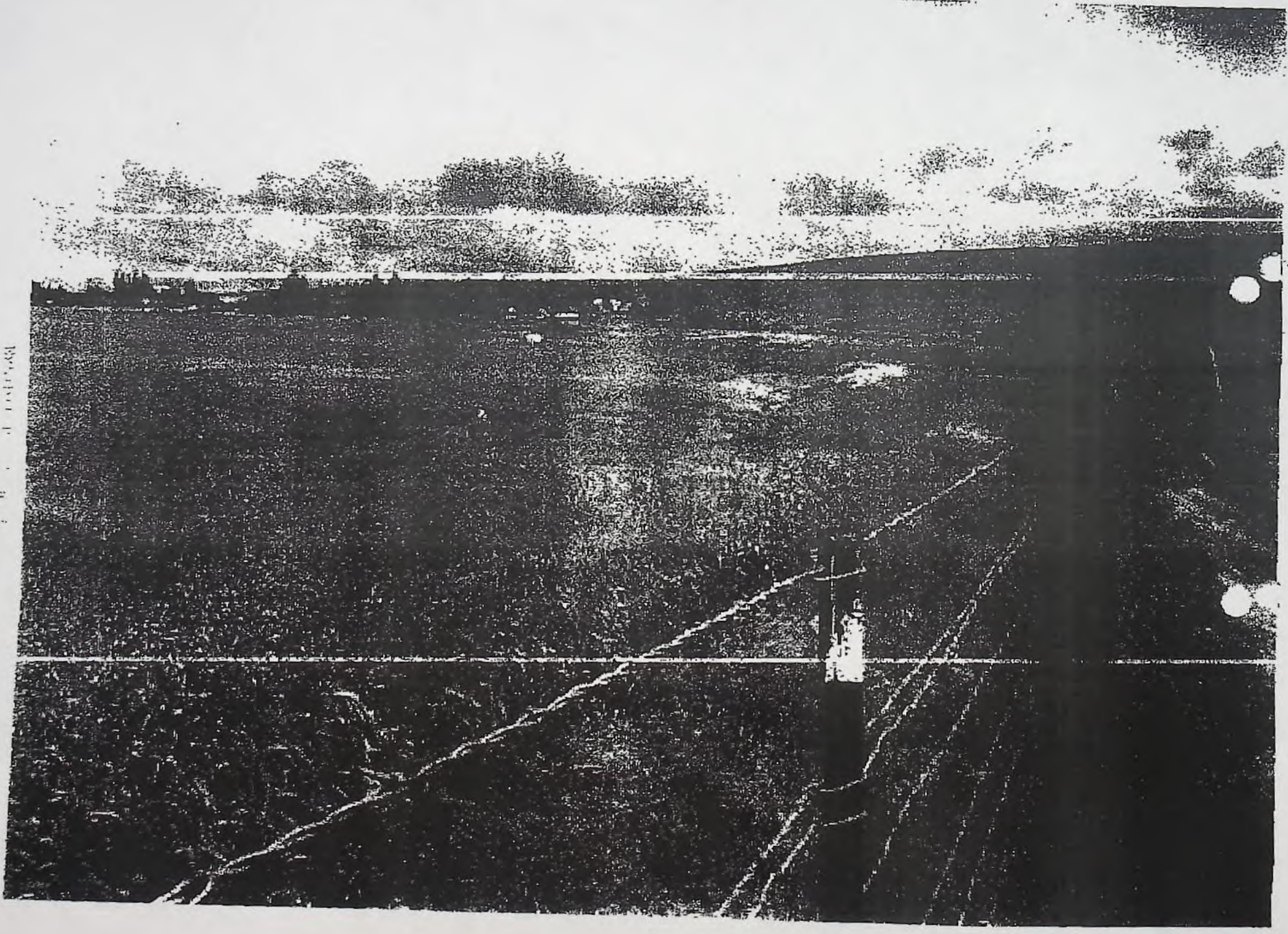
DUNN CARNEY

008/014

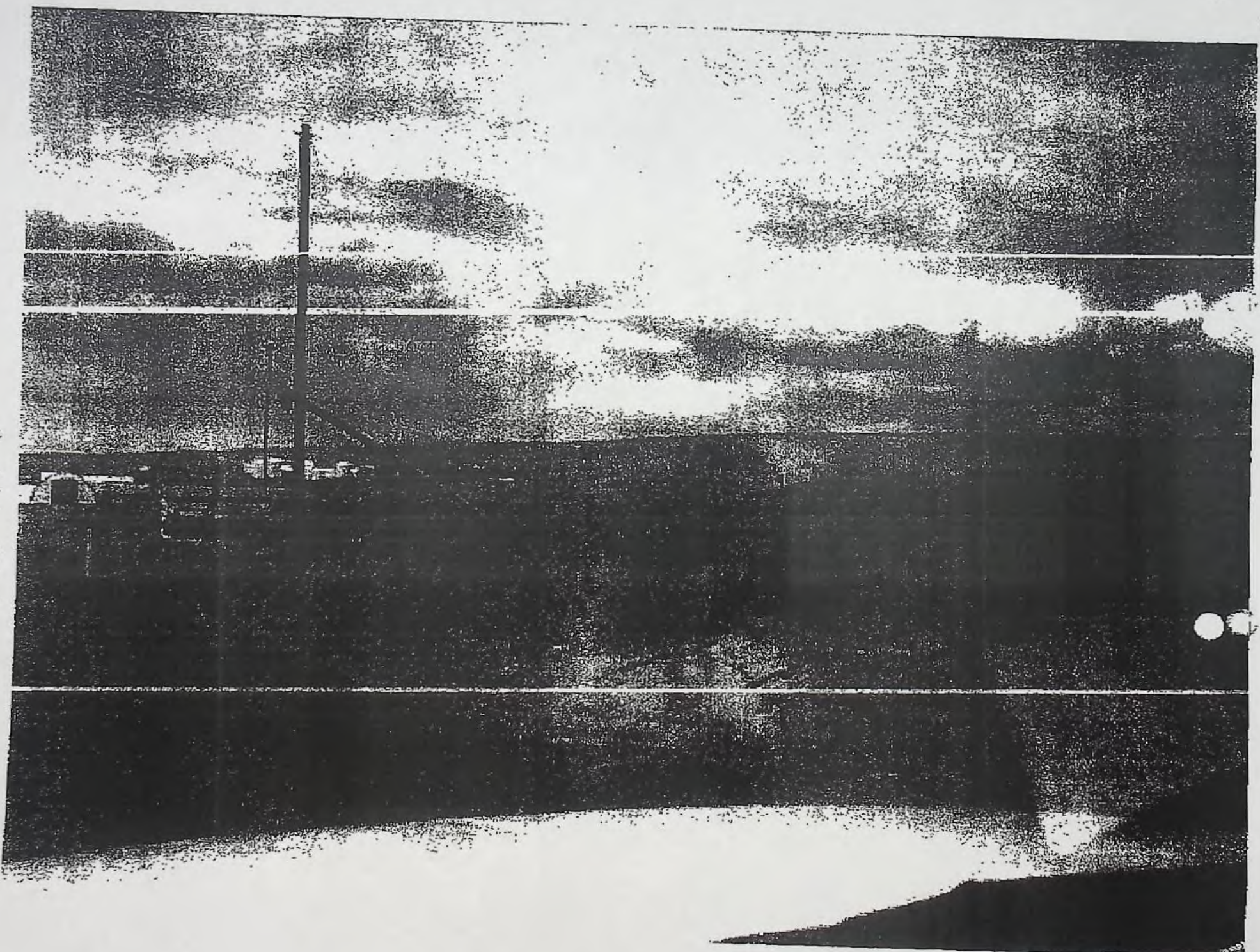


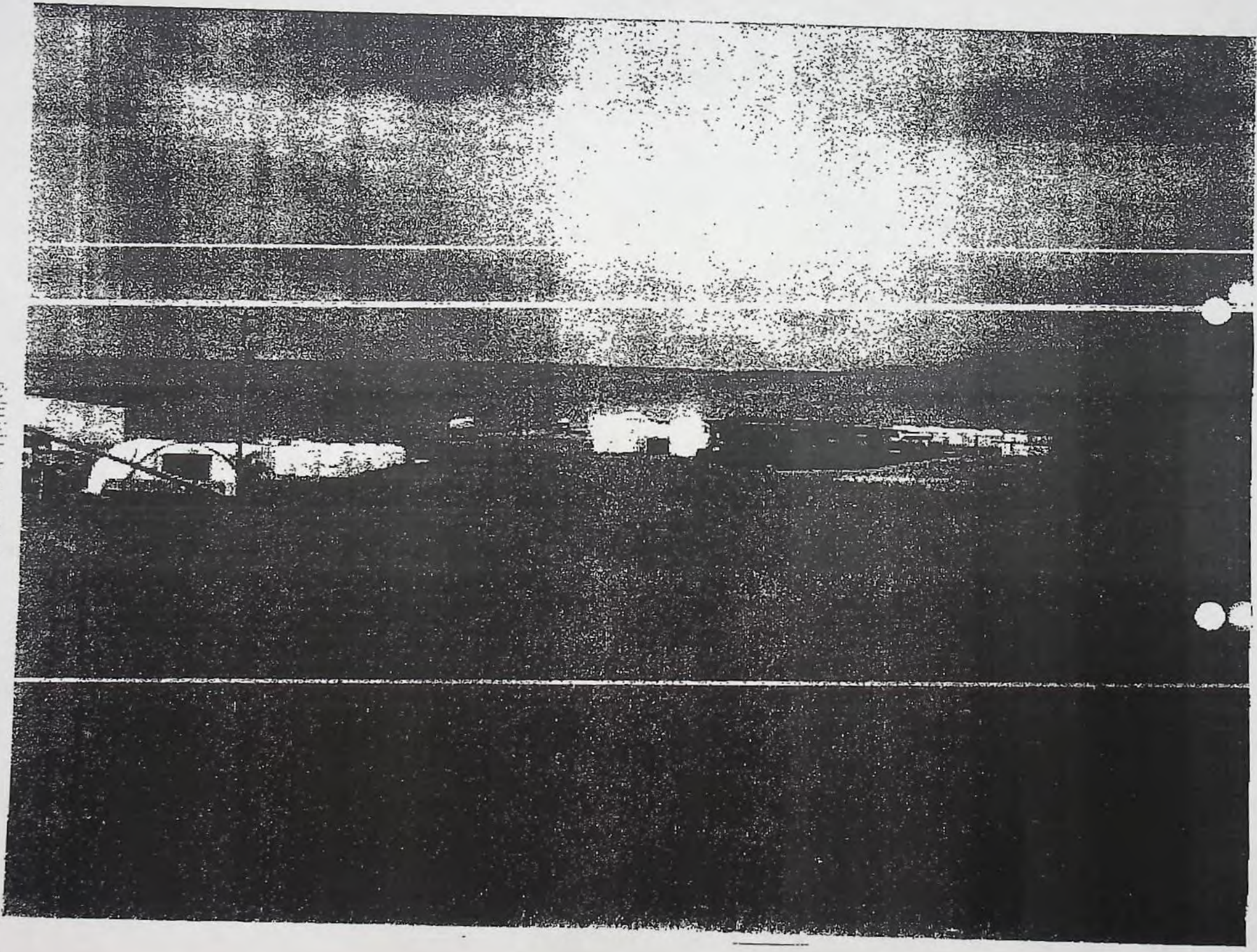
Page 1 of 1

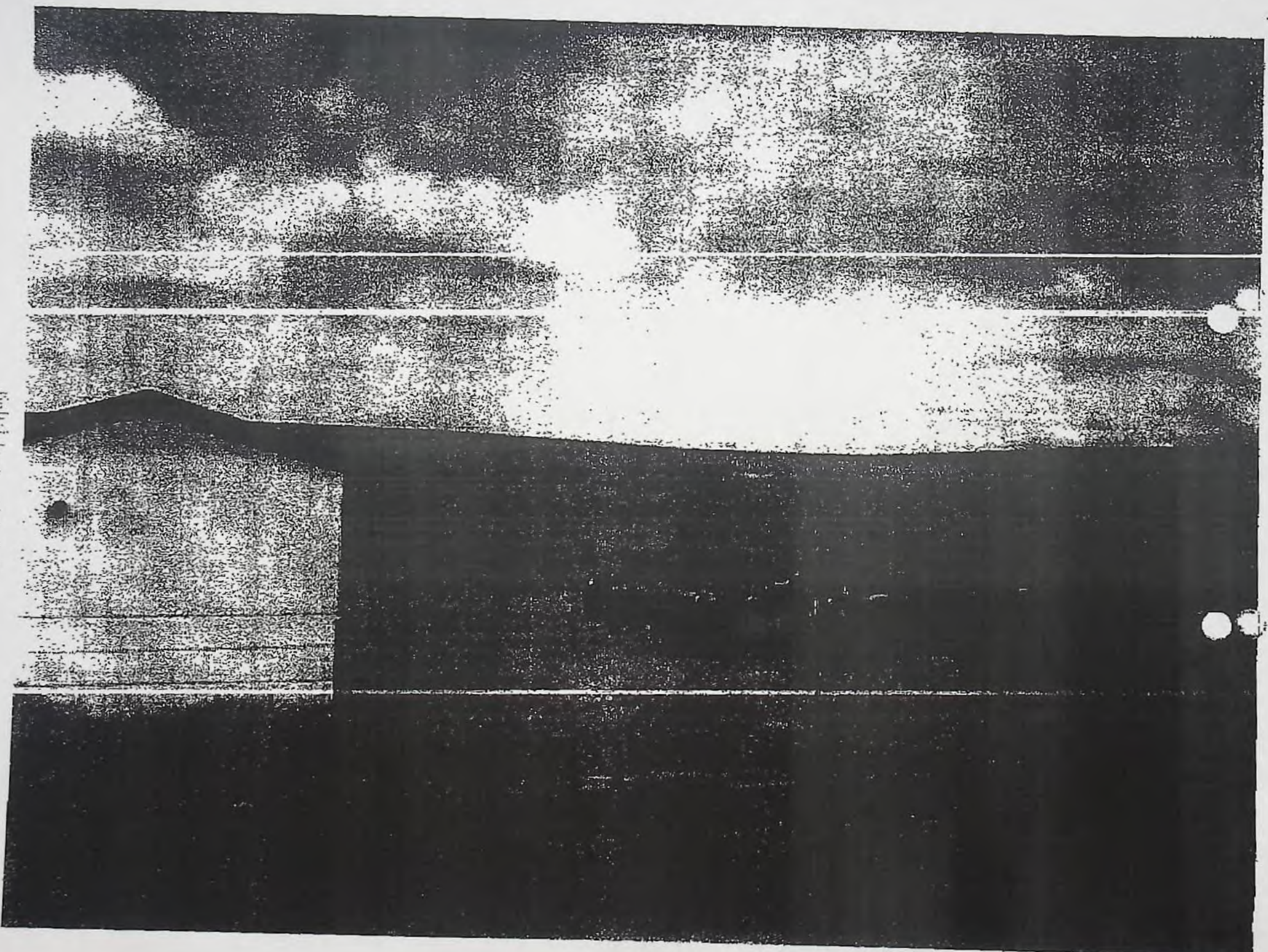


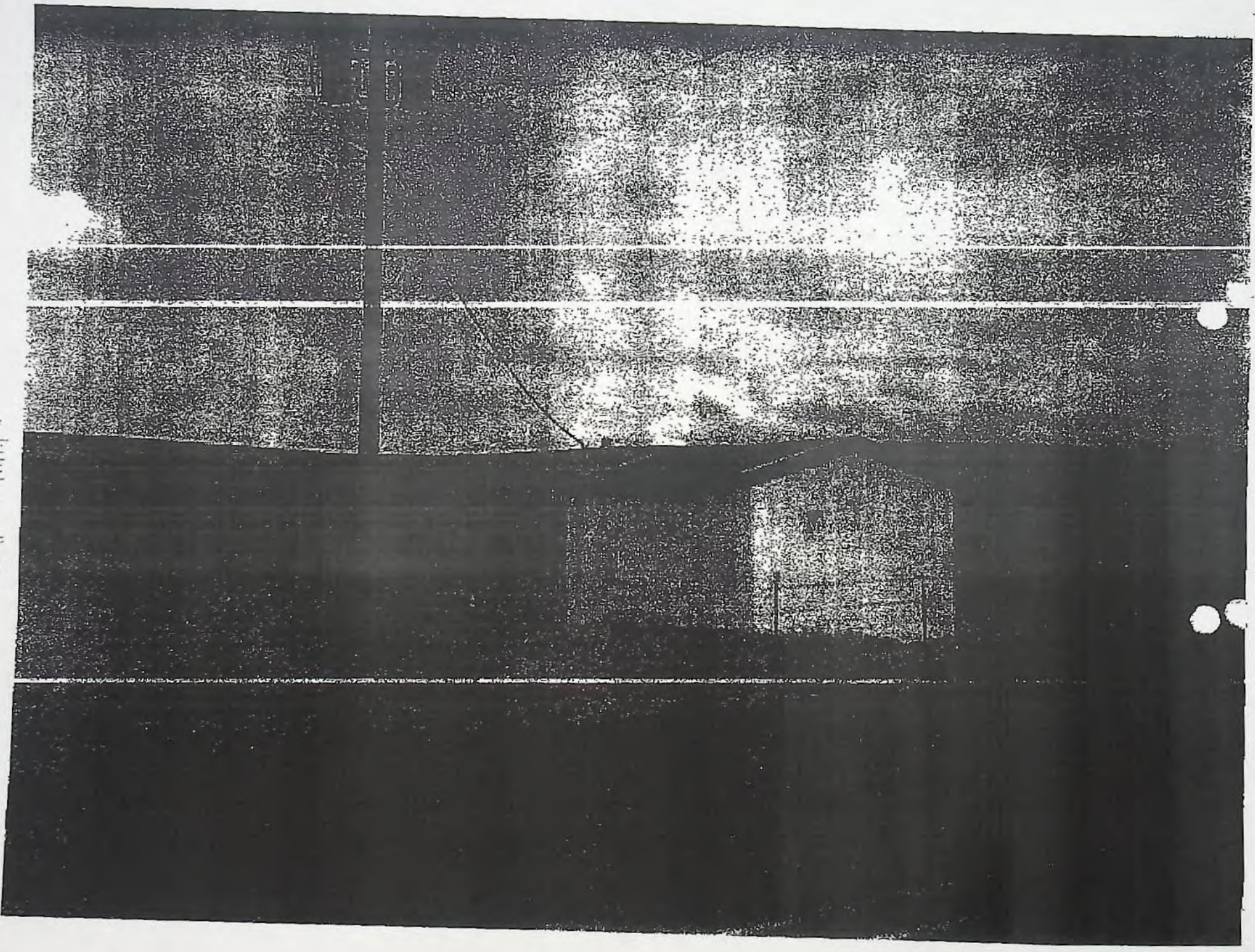


2 11.1 13.1









Subject: P. 100

FAX COVER SHEET

PAGE 1 OF 1

503-986-0901

JEANA,

SUBJECT: APPLICATION G-16663

PLEASE CHANGE ADDRESS ON WATER WRITE APP. AND ALL
CORRESPONDENCE TO;

THE BARNETT EST.
c/o DONALD HILDERBRAND
P.O.
BOX 148
WASCO ORE
97065

ALSO WE, THROUGH COMPLEXITIES, HAVE CHOSEN TO REQUEST THE
DROPPING OF COMMERCIAL AND INDUSTRIAL USE FROM THIS
APPLICATION AT THIS TIME.

THE BARNETT EST
DONALD HILDERBRAND
MANAGER

Barnett Est
Donald Hilderbrand *mgf*

cc. L TOLL
TENNISON ENGINEERING
541-296-6657

OREGON WATER RESOURCES DEPARTMENT



State of Oregon
Water Resources Department
725 Summer St NE, Ste A
Salem, OR 97301-1266
Phone #: (503) 986-0900
Fax#: (503) 986-0901
www.wrd.state.or.us

FAX TRANSMITTAL

TO: Elizabeth Howard FAX NUMBER: 503 224 7324
DATE: 1/29/02 PAGES: 10, INCLUDING COVER SHEET
FROM: Jean Eastman PHONE: (503) 986-0 859
COMMENTS: division 9 review, per your request

- WATER RIGHTS**
- Water Rights information
 - Adjudications
 - Hydroelectric
 - Certifications / Final Proofs
 - Hearings / Contested Cases

FAX: (503) 986-0901

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 - Ground Water
 - Information Services
 - GIS/Mapping
 - Dam Safety
 - Enforcement
 - Water Use Reporting

FAX: (503) 986-0902

- FIELD SERVICES**
- Regional Liaisons
 - Transfers
 - Hydrographics

NORTHWEST REGION

- District 16 Watermaster

DIRECTOR'S OFFICE

- Water Resources Commission
- Legislation and Rules
- Public Information

ADMINISTRATIVE SERVICES

- Fiscal / Accounting
- Human Resources / Personnel
- Water Development Loan Fund
- Support Services

FAX: (503) 986-0903 or
503-986-0904

PUBLIC INTEREST REVIEW FOR GROUND WATER APPLICATIONS

TO: Water Rights Section Date October 16, 2006

FROM: Ground Water/Hydrology Section Michael Zwart
Reviewer's Name

SUBJECT: Application G- 16663 Supersedes review of N/A
Date of Review(s)

PUBLIC INTEREST PRESUMPTION: GROUNDWATER

OAR 690-310-130 (1) *The Department shall presume that a proposed groundwater use will ensure the preservation of the public welfare, safety and health as described in ORS 537.525. Department staff review ground water applications under OAR 690-310-140 to determine whether the presumption is established. OAR 690-310-140 allows the proposed use be modified or conditioned to meet the presumption criteria. This review is based upon available information and agency policies in place at the time of evaluation.*

A. GENERAL INFORMATION: Applicant's Name: Barnett Estate Partnership County: Sherman

A1. Applicant(s) seek(s) 3.0 cfs from one well(s) in the Deschutes* Basin,
Spanish Hollow Creek subbasin Quad Map: Wasco

A2. Proposed use: Irr. 606.1 ac., Comm/Ind., Res. Seasonality: Irr., March 1 to October 31; Year Round

A3. Well and aquifer data (attach and number logs for existing wells; mark proposed wells as such under logid):

Well	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	SHER 50175	1	CRB	3.0	1N/17E-4 SW-NW	1830' S, 60' E fr NW cor S 4
2						
3						
4						
5						

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	1212	80	-55.4	10/6/05	142**	0-102	0-102	None	None	180	?	Flo

Use data from application for proposed wells.

A4. Comments: *Well is within a drainage that is tributary to the Columbia, not within the Deschutes or John Day SWW.
**Bottom 8 feet of well is plugged. The shallowest water-bearing zone (80-89) is cased and sealed off. The well flows with a shut-in pressure of 24 psi.

A5. ☒ **Provisions of the Deschutes** Basin rules relative to the development, classification and/or management of ground water hydraulically connected to surface water ☐ are, or ☒ are not, activated by this application. (Not all basin rules contain such provisions.)
Comments: _____

A6. ☐ Well(s) # _____, _____, _____, _____, _____, tap(s) an aquifer limited by an administrative restriction.
Name of administrative area: _____
Comments: _____

B1. Based upon available data, I have determined that ground water* for the proposed use:

- a. ☐ is over appropriated, ☐ is not over appropriated, or ☒ cannot be determined to be over appropriated during any period of the proposed use. * This finding is limited to the ground water portion of the over-appropriation determination as prescribed in OAR 690-310-130;
- b. ☐ will not or ☐ will likely be available in the amounts requested without injury to prior water rights. * This finding is limited to the ground water portion of the injury determination as prescribed in OAR 690-310-130;
- c. ☐ will not or ☐ will likely to be available within the capacity of the ground water resource; or
- d. ☒ will, if properly conditioned, avoid injury to existing ground water rights or to the ground water resource:
- i. ☒ The permit should contain condition #(s) 7N;
- ii. ☒ The permit should be conditioned as indicated in item 2 below.
- iii. ☐ The permit should contain special condition(s) as indicated in item 3 below;

- B2.
- a. ☐ **Condition** to allow ground water production from no deeper than _____ ft. below land surface;
 - b. ☐ **Condition** to allow ground water production from no shallower than _____ ft. below land surface;
 - c. ☒ **Condition** to allow ground water production only from the _____ **basalt** _____ ground water reservoir between approximately _____ ft. and _____ ft. below land surface;
 - d. ☐ **Well reconstruction** is necessary to accomplish one or more of the above conditions. The problems that are likely to occur with this use and without reconstructing are cited below. Without reconstruction, I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Ground Water Section.

Describe injury –as related to water availability– that is likely to occur without well reconstruction (interference w/ senior water rights, not within the capacity of the resource, etc): _____

- B3. Ground water availability remarks: Potential for water-level declines and overdraft of the resource exists virtually everywhere the Columbia River Basalt aquifers are developed, especially in Eastern Oregon where recharge is small. If no measurement/decline condition is used, as recommended above, then I would need to re-review the file, with the likely result being that one or both of the boxes 'will not likely be available...' being checked under B1b or B1c.

C. GROUND WATER/SURFACE WATER CONSIDERATIONS, OAR 690-09-040**C1. 690-09-040 (1): Evaluation of aquifer confinement:**

Well	Aquifer or Proposed Aquifer	Confined	Unconfined
1	Basalt of the Columbia River Basalt Group	☒	☐
		☐	☐
		☐	☐
		☐	☐
		☐	☐

Basis for aquifer confinement evaluation: Basalt aquifers are typically confined except where they occur at shallow depth or are hydraulically connected with an overlying unconfined aquifer. The aquifer here is relatively shallow, but appears to be locally confined by a clay bed and possibly a low-permeable basalt into which the well is cased and sealed.

C2. 690-09-040 (2) (3): Evaluation of distance to, and hydraulic connection with, surface water sources. All wells located a horizontal distance less than ¼ mile from a surface water source that produce water from an unconfined aquifer shall be assumed to be hydraulically connected to the surface water source. Include in this table any streams located beyond one mile that are evaluated for PSI.

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (ft)	Hydraulically Connected?			Potential for Subst. Interfer. Assumed?	
						YES	NO	ASSUMED	YES	NO
1	1	Spanish Hollow	1267	1175	400	☐	☒	☐	☐	☒
1	2	Unn trib Sp Hollow	1267	1195	3800	☐	☒	☐	☐	☒
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐

Basis for aquifer hydraulic connection evaluation: The presence of mapped springs at elevations below the head in the well suggests that ground water discharges locally to surface water, but not likely at the nearest reaches of the creeks. Based on the deeper casing and seal here than at City of Wasco wells, it appears likely that hydraulic connection is at least one mile from the well, and this distance will increase if there is a small regional dip to the north.

Water Availability Basin the well(s) are located within: No WAB data in this area.

C3a. 690-09-040 (4): Evaluation of stream impacts for each well that has been determined or assumed to be hydraulically connected and less than 1 mile from a surface water source. Limit evaluation to instream rights and minimum stream flows that are pertinent to that surface water source, and not lower SW sources to which the stream under evaluation is tributary. Compare the requested rate against the 1% of 80% natural flow for the pertinent Water Availability Basin (WAB). If Q is not distributed by well, use full rate for each well. Any checked ☒ box indicates the well is assumed to have the potential to cause PSI.

Well	SW #	Well < ¼ mile?	Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐
		☐	☐			☐		☐		☐

C3b. **690-09-040 (4):** Evaluation of stream impacts by total appropriation for all wells determined or assumed to be hydraulically connected and less than 1 mile from a surface water source. Complete only if Q is distributed among wells. Otherwise same evaluation and limitations apply as in C3a above.

	SW #		Qw > 5 cfs?	Instream Water Right ID	Instream Water Right Q (cfs)	Qw > 1% ISWR?	80% Natural Flow (cfs)	Qw > 1% of 80% Natural Flow?	Interference @ 30 days (%)	Potential for Subst. Interfer. Assumed?
			☐			☐		☐		☐
			☐			☐		☐		☐
			☐			☐		☐		☐
			☐			☐		☐		☐

Comments: This section does not apply.

C4a. **690-09-040 (5):** Estimated impacts on hydraulically connected surface water sources greater than one mile as a percentage of the proposed pumping rate. Limit evaluation to the effects that will occur up to one year after pumping begins. This table encompasses the considerations required by 09-040 (5)(a), (b), (c) and (d), which are not included on this form. Use additional sheets if calculated flows from more than one WAB are required.

Non-Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
Distributed Wells													
Well	SW#	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
		%	%	%	%	%	%	%	%	%	%	%	%
Well Q as CFS													
Interference CFS													
(A) = Total Interf.													
(B) = 80 % Nat. Q													
(C) = 1 % Nat. Q													
(D) = (A) > (C)		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
(E) = (A / B) x 100		%	%	%	%	%	%	%	%	%	%	%	%

(A) = total interference as CFS; (B) = WAB calculated natural flow at 80% exceed. as CFS; (C) = 1% of calculated natural flow at 80% exceed. as CFS; (D) = highlight the checkmark for each month where (A) is greater than (C); (E) = total interference divided by 80% flow as percentage.

Basis for impact evaluation: This section likely applies, but it is not appropriate to use our current Hunt/Wozniak model for aquifers such as the CRB, in which the water-bearing zone is hydraulically connected to surface water only within a restricted reach. Also, in this case, the distance where hydraulic connection occurs is not obvious.

C4b. 690-09-040 (5) (b) The potential to impair or detrimentally affect the public interest is to be determined by the Water Rights Section.

- C5. ☐ If properly conditioned, the surface water source(s) can be adequately protected from interference, and/or ground water use under this permit can be regulated if it is found to substantially interfere with surface water:
- ☐ The permit should contain condition #(s) _____;
 - ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. SW / GW Remarks and Conditions _____

References Used: Local well logs; regional geologic mapping; nearby reviews.

D. WELL CONSTRUCTION, OAR 690-200D1. Well #: 1 Logid: SHER 50175D2. **THE WELL 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) _____

D3. **THE WELL construction deficiency:**

- a. ☐ constitutes a health threat under Division 200 rules;
b. ☐ commingles water from more than one ground water reservoir;
c. ☐ permits the loss of artesian head;
d. ☐ permits the de-watering of one or more ground water reservoirs;
e. ☐ other: (specify) _____

D4. **THE WELL construction deficiency is described as follows:** _____

_____D5. **THE WELL** a. ☐ was, or ☐ was not constructed according to the standards in effect at the time of original construction or most recent modification.b. ☐ I don't know if it met standards at the time of construction.D6. ☐ **Route to the Enforcement Section.** I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Enforcement Section and the Ground Water Section.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

D7. ☐ Well construction deficiency has been corrected by the following actions: _____

__________, 200____.
(Enforcement Section Signature)D8. ☐ **Route to Water Rights Section (attach well reconstruction logs to this page).**

UNITED STATES
DEPARTMENT OF THE INTERIOR
GEOLOGICAL SURVEY

WASH. 18 MI.
STATE 84) 6 MI.

678000m E.

42°30"

679

RUFUS 7 MI.

680

1875 11 NW
(RUFUS)

68



MEMO

October 16, 2006

TO: Application G- 16663

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)

Per ORS 390.835, the Ground Water Section is able to calculate ground water interference with surface water that contributes to a Scenic Waterway. The calculated interference is distributed below.

Per ORS 390.835, the Ground Water Section is **unable** to calculate ground water interference with surface water that contributes to a scenic waterway; **therefore, the Department is unable to find that there is a preponderance of evidence that the proposed use will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway.**

Calculate the percentage of consumptive use by month and fill in the table below. If interference cannot be calculated, per criteria in 390.835, do not fill in the table but check the "unable" option above, thus informing Water Rights that the Department is unable to make a Preponderance of Evidence finding.

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.

[illegible]

**OREGON WATER RESOURCES DEPARTMENT
INTEROFFICE MEMO**

To: Jeana Eastman Date: December 1, 2006

From: Mike Zwart

Subject: Comments on Letter to File R-86559 and Related File G-16663

I reviewed the letter and attachments, dated June 30, 2006, from Elizabeth Howard. I will restrict my comments to the wells and potential interference. I have no comments regarding the Reservoir application.

Based on the well log provided for the Morrow County Grain Growers (MCGG) well (SHER 50058) and its reported location, it appears likely that the proposed well for the above ground-water file for Barnett Estate (SHER 50175) and the MCGG well share the same water-bearing zone. Therefore, it will be expected that pumping or flowing one well will have an impact on the water level (or shut-in head pressure) at the other. This is usually referred to as pumping interference, hydraulic interference or well interference. Without more site-specific data, it cannot be known if the proposed use of the Barnett Estate well will cause substantial interference, as defined in the Division 8 rules, with the MCGG well. However, I recommended permit condition 7N in my review of application G-16663. This condition is, in part, referenced below and it includes language highlighted in bold that would require the permittee/water user to limit the use of the well if hydraulic interference with a senior well exceeds 25 feet. I believe that the proposed condition will result in adequate protection for any senior ground-water rights in the vicinity, including exempt uses of ground water.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. **Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.**

OREGON WATER RESOURCES DEPARTMENT



State of Oregon
Water Resources Department
725 Summer St NE, Ste A
Salem, OR 97301-1266
Phone #: (503) 986-0900
Fax#: (503) 986-0901
www.wrd.state.or.us

FAX TRANSMITTAL

TO: Elizabeth Howard FAX NUMBER: 503-224-7324
DATE: _____ PAGES: 6, INCLUDING COVER SHEET
FROM: Jana Eastman PHONE: (503) 986-0 859
COMMENTS: initial review of g-111663, per your request

WATER RIGHTS

- Water Rights Information
- Adjudications
- Hydroelectric
- Certifications / Final Proofs
- Hearings / Contested Cases

FAX: (503) 986-0901

TECHNICAL SERVICES

- Hydrographics
- Ground Water
- Information Services
- GIS/Mapping
- Dam Safety
- Enforcement
- Water Use Reporting

FAX: (503) 986-0902

FIELD SERVICES

- Regional Liaisons
- Transfers
- Hydrographics

NORTHWEST REGION

- District 16 Watermaster

DIRECTOR'S OFFICE

- Water Resources Commission
- Legislation and Rules
- Public Information

ADMINISTRATIVE SERVICES

- Fiscal / Accounting
- Human Resources / Personnel
- Water Development Loan Fund
- Support Services

FAX: (503) 986-0903 or
503-986-0904



Oregon

Theodore R. Kulongoski, Governor

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

CERTIFIED MAIL
Return Receipt Requested

DON HILDERBRAND
BARNETT ESTATE PARTNERSHIP
PO BOX 273
WASCO, OR 97065

January 12, 2007

Reference: File G-16663

Dear Applicant:

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

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

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule except where otherwise noted below.
2. The use of water from a well (SHER 50175) in Spanish Hollow Basin for irrigation use on 606.0 acres, commercial use, industrial use, and pond maintenance of Pond 1 and Pond 2 (Application R-86559) is allowable under the Deschutes Basin Program.

The storage of 2.5 acre feet of ground water in Pond 1 for multiple purpose from a well (SHER 50175) in Spanish Hollow Basin is allowable under the Deschutes Basin Program.

3. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.

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

4. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The use of 3.0 cubic feet per second from a well (SHER 50175) in Spanish Hollow Basin for irrigation use on 606.0 acres from March 1 through October 31, year-round commercial use, year-round industrial use, and year-round pond maintenance of Pond 1 and Pond 2 (Application R-86559) is allowable.

The storage of 2.5 acre feet of ground water in Pond 1 for year-round multiple purpose from a well (SHER 50175) in Spanish Hollow Basin is allowable.

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

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

Additional Information Required:

Additional information is required to process your application. Please provide the following items:

- A completed Land Use Information Form signed and dated by a Sherman County official for commercial and industrial use. The application demonstrates land use approval has been obtained for irrigation use but not for commercial and industrial use.
- Exam fees in the amount of \$60.00 to cover the storage of 2.5 acre feet of ground water.

Please submit this information no later than Thursday, February 15, 2007. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

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

To Proceed With Your Application:

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

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, January 26, 2007**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. The well shall allow production only from the basalt ground water reservoir.
3. The Department requires the water user to measure and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data.

The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

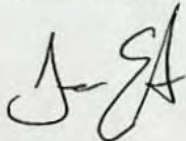
The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

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

If you have any questions:

Feel free to call me at 503-986-0859 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-16663
WAB 5-
POU 5-
GW

Jeana Eastman

From: Jeana Eastman [Jeana.M.EASTMAN@wrд.state.or.us]
Sent: Thursday, January 25, 2007 11:26 AM
To: 'Larry Toll'
Subject: RE: Application G-16663

Hi Larry,

Thanks for the address update but I wanted to let you know that any changes made to the application need to come from the applicant or someone authorized by the applicant. This is meant to protect the applicant, however I understand it some cases it may be an inconvenience. Mr. Hilderbrand can mail or fax his signed request to allow you to make changes to his application and/or let us know his new address.

You're right about the fees; I miscalculated. No fees are due.

I should have been clearer in the Initial Review regarding land use. Here is what I meant: in order to consider commercial and industrial uses as part of the application, Mr. Hilderbrand must be actively *pursuing* land use approval for these uses. As long as he's pursuing approval, we can issue a Proposed Final Order and a Final Order. However, prior to permit issuance, approval for commercial and industrial uses must be obtained. He also has the option to remove commercial and industrial uses from the application and apply for them under a new application at a later date.

If you have further questions, please let me know.

Thanks,
-jeana

<><> <><> <><> <><> <><> <><> <><> <><> <><> <><>
Jeana Eastman Oregon Water Resources Dept.
Water Rights Caseworker 725 Summer St NE, Suite A
Water Rights Section Salem, OR 97301-1266
Direct 503-986-0859 Front Desk 503-986-0900
Fax 503-986-0901 <http://oregon.gov/OWRD/>

Messages to and from this e-mail address may be available to the public under Oregon law.

From: Larry Toll [mailto:LToll@tennesoneng.com]
Sent: Wednesday, January 24, 2007 9:36 AM
To: Jeana Eastman
Cc: Donald Hilderbrand
Subject: Application G-16663

Jeana,

The mailing address needs to be changed to PO Box 148, Wasco OR 97065.

Concerning Additional Information Required on the Initial Review

01/25/2007

Will you email me a breakdown of the money submitted and where we are short of money for this application? I thought we sent in \$1100 being \$90 for R-86559 and \$1010 for this application being:

\$300 Exam
\$200 for first cfs
\$100 for second cfs
\$100 for third cfs
\$60 for up to 3 ac-ft storage
\$250 for recording fee

On the land use form, the Sherman County has acknowledge that Industrial and Commercial use might be possibility in the future. Sherman County included in the land use form that Industrial and Commercial would require a Rezone or Conditional Use Permit, and that if that happens the applicant has to "come back and obtain land use approval."

The applicant acknowledged that Industrial and Commercial are speculative at this time in both the application and land use form. Further more the applicant acknowledged in the land use form to Sherman County that "we realize future planning actions would be required for this to happen."

Since the Industrial and Commercial Use are not planned until a later date, there is not a land use approval that can be obtained at this date. Sherman County has already indicated on the land use form that "approval is not being pursued" at this time and what will be required to get this approved. They did give current approval to irrigation. If the applicant can not get land use approval for Industrial and Commercial Use it can not be built. It has been estimated that the rezoning process might take up to 1 year to complete.

I believe that the purpose of the land use form has been accomplished, everyone know the current status and what would need to be done. Once more, if the applicant had submitted the "Receipt for Request for Land Use Information" the OWRD might never had heard from Sherman County. If OWRD had sent the follow up notice to the "Receipt for Request for Land Use Information", Sherman County does not even have to respond and after 30 days OWRD would continue processing.

The point here, everyone has been notified. Everyone acknowledges that if Industrial and Commercial Uses are developed additional planning work needs to be done. Also without the water right permit in hand the applicant may not be able to satisfy the requirements to get land use approval.

Finally, it would be acceptable for the OWRD to add condition to the proposed permit to preclude use of water and any associated construction for the proposed Industrial and/or Commercial Use until the applicant obtains all required local land use approvals.

Let us know how to proceed on this application?

Thank you for your time.

Larry

Larry Toll, P.E., W.R.E.
Tenneson Engineering Corporation
409 Lincoln Street
The Dalles, OR 97058
Phone: 541-296-9177
Fax: 541-296-6657
E-mail: ltoll@tennesoneng.com

Jeana Eastman

From: Larry Toll [LToll@tennesoneng.com]
Sent: Wednesday, January 24, 2007 9:36 AM
To: Jeana Eastman
Cc: Donald Hilderbrand
Subject: Application G-16663

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The point here, everyone has been notified. Everyone acknowledges that if Industrial and Commercial Uses are developed additional planning work needs to be done. Also without the water right permit in hand the applicant may not be able to satisfy the requirements to get land use approval.

Finally, it would be acceptable for the OWRD to add condition to the proposed permit to preclude use of water and any associated construction for the proposed Industrial and/or Commercial Use until the applicant obtains all required local land use approvals.

Let us know how to proceed on this application?

Thank you for your time.

Larry

01/24/2007

Application G-16663

Larry Toll, P.E., W.R.E.
Tenneson Engineering Corporation
409 Lincoln Street
The Dalles, OR 97058
Phone: 541-296-9177
Fax: 541-296-6657
E-mail: ltoll@tennesoneng.com

STATE OF OREGON

COUNTY OF SHERMAN

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

BARNETT ESTATE PARTNERSHIP
PO BOX 148
WASCO, OR 97065

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16663

SOURCE OF WATER: A WELL (SHER 50175) IN SPANISH HOLLOW BASIN

PURPOSE OR USE: IRRIGATION USE ON 606.0 ACRES, STORAGE OF GROUND WATER
IN POND 1 FOR MULTIPLE PURPOSE, AND POND MAINTENANCE OF POND 1 AND POND
2 (PERMIT R-14396)

MAXIMUM RATE: 3.0 CUBIC FEET PER SECOND (CFS), FURTHER LIMITED TO 0.042
CFS FOR POND MAINTENANCE

MAXIMUM VOLUME: 2.5 ACRE FEET OF STORAGE IN POND 1

PERIOD OF USE: IRRIGATION - MARCH 1 THROUGH OCTOBER 31
POND MAINTENANCE - YEAR ROUND
STORAGE - YEAR ROUND

DATE OF PRIORITY: APRIL 19, 2006

WELL LOCATION: SW ¼ NW ¼, SECTION 4, T1N, R17E, W.M.; 1830 FEET SOUTH &
60 FEET EAST FROM NW CORNER, SECTION 4

POND 1: SW ¼ NW ¼, SECTION 4, T1N, R17E, W.M.; 2180 FEET SOUTH & 130
FEET EAST FROM NW CORNER, SECTION 4

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 and
3.0 acre-feet for each acre irrigated during the irrigation season of
each year.

RECEIVED BY OWRD

DEC 27 2016

SALEM, OR

Application G-16663 Water Resources Department

PERMIT G-16196

THE PLACE OF USE IS LOCATED AS FOLLOWS:

GOVT LOT: 3	(NE ¼ NW ¼)	35.6 ACRES
GOVT LOT: 4	(NW ¼ NW ¼)	39.7 ACRES
	SW ¼ NW ¼	40.0 ACRES
	SE ¼ NW ¼	40.0 ACRES

SECTION 3

GOVT LOT: 1	(NE ¼ NE ¼)	39.7 ACRES
GOVT LOT: 2	(NW ¼ NE ¼)	39.7 ACRES
	SW ¼ NE ¼	38.0 ACRES
	SE ¼ NE ¼	39.5 ACRES
GOVT LOT: 3	(NE ¼ NW ¼)	39.7 ACRES
GOVT LOT: 4	(NW ¼ NW ¼)	37.4 ACRES
	SW ¼ NW ¼	34.5 ACRES
	SE ¼ NW ¼	37.0 ACRES

POND MAINTENANCE
POND MAINTENANCE

SECTION 4

TOWNSHIP 1 NORTH, RANGE 17 EAST, W.M.

NE ¼ SE ¼	27.0 ACRES
NW ¼ SE ¼	39.1 ACRES
SW ¼ SE ¼	39.1 ACRES
SE ¼ SE ¼	40.0 ACRES

RECEIVED BY OWRD

DEC 27 2016

SECTION 33

TOWNSHIP 2 NORTH, RANGE 17 EAST, W.M.

SALEM, OR

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. 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.

The well shall produce groundwater only from the basalt groundwater reservoir.

The Department requires the water user to measure and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

DEC 27 2016

PAGE 4

SALEM, OR

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

STANDARD CONDITIONS

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.

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.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

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.

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 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.

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.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2011. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued June 21, 2007

E. Timothy Wall for

Phillip C. Ward, Director
Water Resources Department

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SALEM, OR

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

G-16663

HILDERBRAND DON
BARNETT ESTATE PARTNERSHIP
PO BOX 273 PO Box 148
WASCO OR 97065

2. Article Number

(Transfer from service label)

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

1-17-07

- D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

- ☐ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

7003 3110 00031378 4690

Domestic Return Receipt

WR

102595-02-M-1540

UNITED STATES POSTAL SERVICE

17 JAN 2007 PM 3:17

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

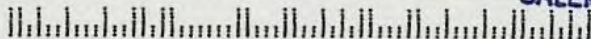
WATER RESOURCES DEPARTMENT
725 SUMMER STREET NE SUITE A
SALEM OR 97301-1271

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JAN 18 2007

**WATER RESOURCES DEPT
SALEM, OREGON**

C007





Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

CERTIFIED MAIL Return Receipt Requested

DON HILDERBRAND
BARNETT ESTATE PARTNERSHIP
PO BOX 273
WASCO, OR 97065

January 12, 2007

Reference: File G-16663

Dear Applicant:

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

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

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule except where otherwise noted below.
2. The use of water from a well (SHER 50175) in Spanish Hollow Basin for irrigation use on 606.0 acres, commercial use, industrial use, and pond maintenance of Pond 1 and Pond 2 (Application R-86559) is allowable under the Deschutes Basin Program.

The storage of 2.5 acre feet of ground water in Pond 1 for multiple purpose from a well (SHER 50175) in Spanish Hollow Basin is allowable under the Deschutes Basin Program.

3. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.

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

4. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The use of 3.0 cubic feet per second from a well (SHER 50175) in Spanish Hollow Basin for irrigation use on 606.0 acres from March 1 through October 31, year-round commercial use, year-round industrial use, and year-round pond maintenance of Pond 1 and Pond 2 (Application R-86559) is allowable.

The storage of 2.5 acre feet of ground water in Pond 1 for year-round multiple purpose from a well (SHER 50175) in Spanish Hollow Basin is allowable.

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

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

Additional Information Required:

Additional information is required to process your application. Please provide the following items:

- A completed Land Use Information Form signed and dated by a Sherman County official for commercial and industrial use. The application demonstrates land use approval has been obtained for irrigation use but not for commercial and industrial use.
- Exam fees in the amount of \$60.00 to cover the storage of 2.5 acre feet of ground water.

Please submit this information no later than Thursday, February 15, 2007. If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

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

To Proceed With Your Application:

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

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, January 26, 2007**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
 - B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. The well shall allow production only from the basalt ground water reservoir.
3. The Department requires the water user to measure and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data.

The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

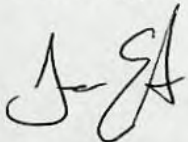
The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

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

If you have any questions:

Feel free to call me at 503-986-0859 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-16663
WAB 5-
POU 5-
GW

APPLICATION FACT SHEET

Mail to: *Applicant, Watermaster, District Biologist (ODFW)*
 If necessary, also mail to : *Regional Water quality manager (DEQ), and DOA*

Application File Number: G-16663

Applicant: DON HILDERBRAND for BARNETT ESTATE PARTNERSHIP

County: Sherman

Watermaster: 3

Priority Date: April 19, 2006

Source: A WELL (SHER 50175) IN SPANISH HOLLOW BASIN

Use: IRRIGATION USE ON 606.0 ACRES, COMMERCIAL USE, INDUSTRIAL USE, STORAGE OF GROUND WATER IN POND 1 FOR MULTIPLE PURPOSE, AND POND MAINTENANCE OF POND 1 AND POND 2 (APPLICATION R-86559)

Quantity: 3.0 CUBIC FEET PER SECOND

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 3 SPANISH HOLLOW & MISC

Point of Diversion or Well Location(s): WELL (SHER 50175): SWNW, SECTION 4, T1N, R17E, W.M.; 1830 FEET SOUTH & 60 FEET EAST FROM NW CORNER, SECTION 4
 POND 1: SWNW, SECTION 4, T1N, R17E, W.M.; 2180 FEET SOUTH & 130 FEET EAST FROM NW CORNER, SECTION 4

Place of Use:

		<u>IRRIGATION</u>	<u>COMMERCIAL</u>	<u>INDUSTRIAL</u>	<u>POND MAINTENANCE</u>
GOVT LOT: 3	NE ¼ NW ¼	35.6 ACRES			
GOVT LOT: 4	NW ¼ NW ¼	39.7 ACRES			
	SW ¼ NW ¼	40.0 ACRES			
	SE ¼ NW ¼	40.0 ACRES			

SECTION 3, TOWNSHIP 1 NORTH, RANGE 17 EAST, W.M.

		<u>IRRIGATION</u>	<u>COMMERCIAL</u>	<u>INDUSTRIAL</u>	<u>POND MAINTENANCE</u>
GOVT LOT: 1	NE ¼ NE ¼	39.7 ACRES			
GOVT LOT: 2	NW ¼ NE ¼	39.7 ACRES			
	SW ¼ NE ¼	38.0 ACRES			
	SE ¼ NE ¼	39.5 ACRES			
GOVT LOT: 3	NE ¼ NW ¼	39.7 ACRES	✓	✓	
GOVT LOT: 4	NW ¼ NW ¼	37.4 ACRES	✓	✓	✓
	SW ¼ NW ¼	34.5 ACRES	✓	✓	✓
	SE ¼ NW ¼	37.0 ACRES	✓	✓	

SECTION 4, TOWNSHIP 1 NORTH, RANGE 17 EAST, W.M.

Place of Use continued:

	<u>IRRIGATION</u>	<u>COMMERCIAL</u>	<u>INDUSTRIAL</u>	<u>POND MAINTENANCE</u>
NE ¼ SE ¼	27.0 ACRES			
NW ¼ SE ¼	39.1 ACRES			
SW ¼ SE ¼	39.1 ACRES			
SE ¼ SE ¼	40.0 ACRES			

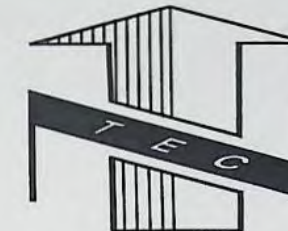
SECTION 33, TOWNSHIP 2 NORTH, RANGE 17 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, January 26, 2007

PUBLIC NOTICE DATE: Tuesday, January 16, 2007

30 DAY COMMENT DEADLINE DATE: Thursday, February 15, 2007

TOWNSHIP 1 N. RANGE 17 E. AND TOWNSHIP 2 N., RANGE 17 E., W.M. SHERMAN COUNTY, OREGON



GROUND WATER APPLICATION AND RESERVOIR APPLICATION

FOR WATER RIGHT

SCALE: 1"=1320'

APPLICATION No. _____

PERMIT No. _____

IN THE NAME OF:

BARNETT ESTATE PARTNERSHIP

DATE: APRIL 5, 2006

TENNESON ENGINEERING CORP.

CONSULTING ENGINEERS
409 LINCOLN STREET
THE DALLES, OREGON 97058
541-296-9177 FAX 541-296-6657



EXPIRES: 06/30/06

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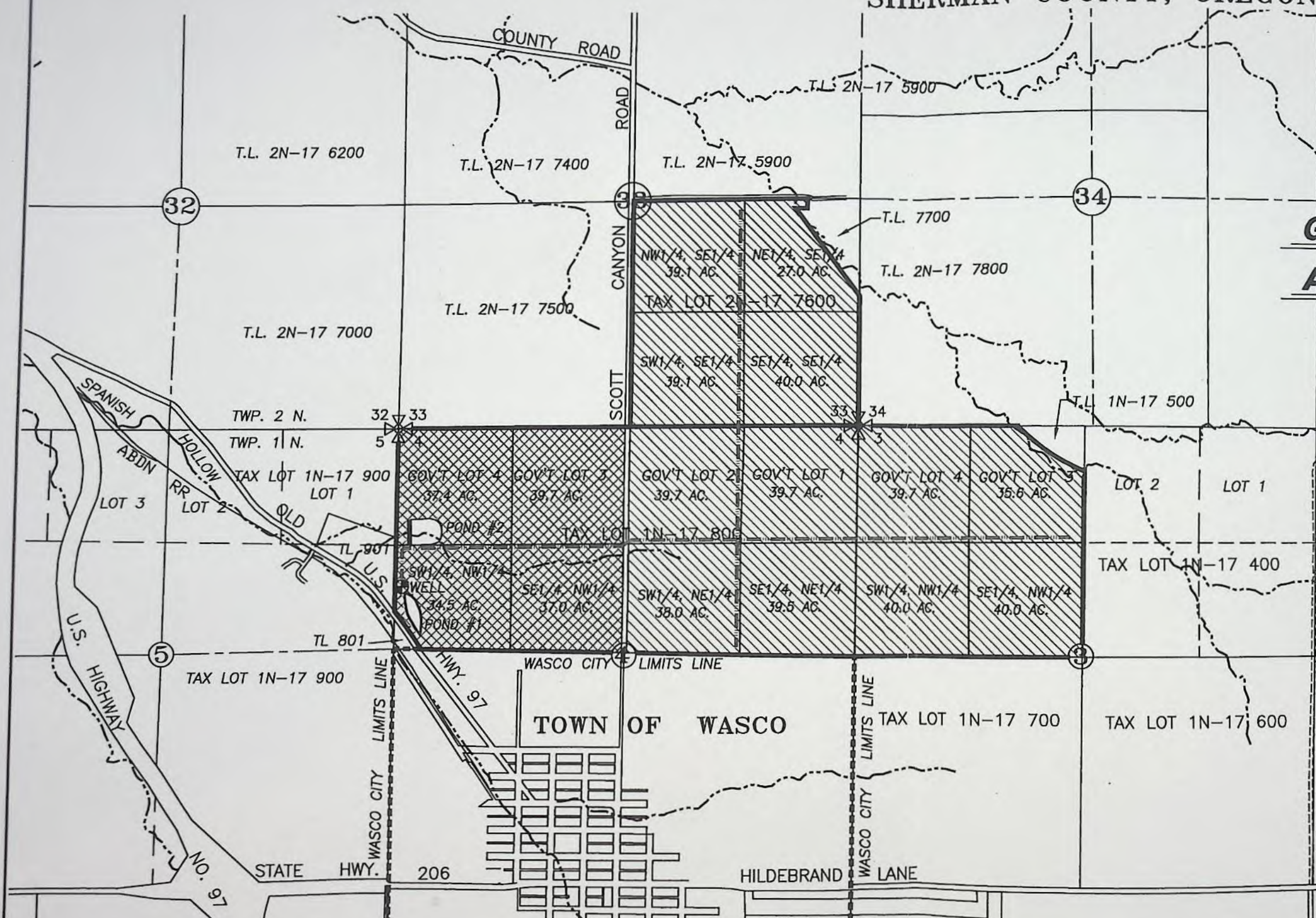
APR 19 2006

WATER RESOURCES DEPT
SALEM, OREGON

NOTE:

"THIS MAP IS NOT INTENDED TO
PROVIDE DIMENSIONS OR LOCATIONS
OF PROPERTY OWNERSHIP LINES."

W.O. #11484wr



- EXISTING WELL, 1830' S. & 60' E. OF NW COR. SEC. 4
- ▨ PROPOSED IRRIGATION AREA = 606.1 ACRES
- ▩ PROPOSED INDUSTRIAL & COMMERCIAL AREA
- PROPOSED IRRIGATION MAIN

POND #1 = 2180' SOUTH AND 130' EAST FROM
THE NW CORNER, SECTION 4

POND #2 = 1220' SOUTH AND 150' EAST FROM
THE NW CORNER, SECTION 4

add no G-110463



7-14463
r-86559

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JUN 30 2006

WATER RESOURCES DEPT
SALEM, OREGON

June 30, 2006

ELIZABETH E. HOWARD

DIRECT DIAL
503.417.5514

E-MAIL
eeh@dunn-carney.com

ADDRESS
Suite 1500
851 S.W. Sixth Avenue
Portland, Oregon
97204-1357

Phone 503.224.6440
Fax 503.224.7324

INTERNET
www.dunn-carney.com

VIA HAND DELIVERY

Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301

Re: Comments on Application R-86559
Our File No. MOR1-2

Dear Sir or Madam:

This office represents Morrow County Grain Growers ("MCGG"). MCGG submits this letter pursuant to ORS 537.409(5). MCGG is a farmer's cooperative with its principal offices in Lexington, Oregon. MCGG also owns a branch store near the City of Wasco in Sherman County for which an artesian well is the only water source for domestic and fire protection. MCGG submits these comments in opposition to reservoir application R-86559 so as to ensure that MCGG's ground water right is not injured.

The MCGG well jeopardized by application R-86559 is an artesian groundwater right, with sufficient artesian pressure to run water throughout the store without need for more than a small pump. Don Hilderbrand, the applicant for reservoir application R-86559, is a rancher owning property adjacent to the MCGG branch store. Despite having knowledge of MCGG's existing artesian well, Hilderbrand drilled a well ("Hilderbrand well") which appears to be for purposes of irrigation and filling the subject reservoir. The Hilderbrand well is approximately 200 to 300 yards from MCGG's well.

The MCGG artesian well, drilled in 1997, is superior in priority to the water right being sought by Hilderbrand. *See* ORS 537.545(2) and (3). MCGG is concerned that should reservoir application R-86559 be granted and should the related groundwater application be approved, MCGG will be injured due to its inability to draw sufficient amounts of water from its well.

The Water Resources Department ("WRD") must evaluate reservoir application R-86559 for potential injury to existing water rights. *See* ORS 537.409(6). ORS 537.615, regarding permits for the appropriation of groundwater, also requires that the WRD conduct an injury evaluation. *See* ORS 537.621(1). In determining injury, the WRD must consider whether water is available for the proposed use given the status of other existing water rights.

MCGG is concerned that granting reservoir application R-86559 and the related groundwater application will substantially impact the availability and amount of water which MCGG is able to use.

Well Log Reports show that the completed depth of the Hilderbrand well is approximately 142 feet. MCGG's well is at the completed depth of 140 feet. (A copy of the Well Log Reports are attached to this correspondence as Exhibit "A".) Test operations of the pump for the Hilderbrand well resulted in the branch store losing all of its water. Thus, not only does it appear that the wells are supplied by the same aquifer, but there is also a high likelihood that the MCGG water right will be injured by the Hilderbrand well and the associated reservoir application.

In addition to the above, attached as Exhibit "B" are pictures of the "drainage" that Hilderbrand apparently also intends to use to supply water to the subject reservoir. To the extent it can be called a water course, these pictures, taken in May 2006, depict its dryness. The Hilderbrand application states that the source for the reservoir will be an unnamed drainage that is a tributary to Spanish Hollow creek. While it is unclear whether the WRD has previously assessed whether the Spanish Hollow stream is over-appropriated, given the state of these conditions in May, it is likely that this "stream" is highly over-appropriated. This issue should be definitively resolved prior to any approval of reservoir application R-86559.

For the reasons set forth above, granting application R-86559 could severely impact the amount of ground water available for use by MCGG. Further, the water course that this application appears to be relying on as its source is dry during the wet times of the year. MCGG therefore requests that reservoir application R-86559 be denied or conditioned so as to ensure that the use will not injure MCGG and so as to ensure it is consistent with Oregon law.

Very truly yours,



Elizabeth E. Howard

EEH:mrw

cc: Client (w/encls.)

Attachments

\\ODMA\GRPWISE\DUNN-CAR.POST1.CLIENTS\405972.1

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JUN 30 2006

**WATER RESOURCES DEPT
SALEM, OREGON**

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

Instructions for completing this report are on the last page of this form

WELL ID # L L70770

(START CARD) # 168541

(1) OWNER:

Well Number: _____

Name The Barnett Est. (Don Hilderbrand)

Address P. O. Box 273

City Wasco State OR Zip 97065

(2) TYPE OF WORK:

☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:

☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other _____

(4) PROPOSED USE:

☐ Domestic ☐ Community ☐ Industrial ☒ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other _____

(5) BORE HOLE CONSTRUCTION:

Special Construction approval ☐ Yes ☒ No Depth of Completed Well 142 ft.

Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE			SEAL			Amount	
Diameter	From	To	Material	From	To	sacks or pounds	
20"	0	20	Cement	0	20'	18 Sacks	
16"	20'	102'	Cement	0	102'	101 Sacks	
12"	102'	142'					

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	Steel	Plastic	Welded	Threaded
Casing:	16"	+1	20'	.250	☒	☐	☒	☐
	12"	+2	102'	.250	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of shoe(s) 102

(7) PERFORATIONS/SCREENS:

☐ Perforations Method _____
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐

(8) WELL TESTS: Minimum testing time is 1 hour

☐ Pump ☐ Baller ☐ Air ☒ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
180	0%		1 hr.

Temperature of Water 57 Depth Artesian Flow found 128

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: 80 to 89

(9) LOCATION OF WELL by legal description:

County Sherman Latitude 45.60119N Longitude 120.7062W

Township 1N N or S. Range 17E E or W. of WM.

Section 4 SW 1/4 NW 1/4

Tax lot 800 Lot _____ Block _____ Subdivision _____

Street Address of Well (or nearest address) 71025 N. Old Highway

97, Wasco, Or

(10) STATIC WATER LEVEL:

_____ ft. below land surface.

Artesian pressure 24 lb. per square inch. Date 10/06/2005

(11) WATER BEARING ZONES:

Depth at which water was first found 80

From	To	Estimated Flow Rate	SWL
80	89	80	22'
128	133	180	+55.4

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
Soil	0	2	
Basalt Hard Gray	2	4	
Rock Fract. Brown	4	15	
Basalt Hard Gray	15	33	
Basalt Fract. Black	33	60	
Basalt Brown Med.	60	64	
Clay Yellow	64	80	
Rock Decomposed Brown W/B	80	89	22
Basalt Hard Gray	89	128	
Basalt Fract. Med. Gray W/B	128		
Flowing		133	
Basalt Hard Gray	133	138	
Basalt Fract. Hard Gray	138	142	

Bottom of well is plugged with a wood plug with bentonite on top of wood and topped with cement. Plug is from 134 to 142 ft.

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NOV 08 2005

JUN 30 2006

WATER RESOURCES DEPT
SALEM, OREGON

WATER RESOURCES DEPT
SALEM, OREGON Date started 06/30/2005 Completed 10/10/2005

(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 water supply well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed _____ WWC Number _____
Date _____

(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 water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Charles Austin WWC Number 790
Date 10/28/2005

ORIGINAL - WATER RESOURCES DEPARTMENT FIRST COPY - CONSTRUCTOR SECOND COPY - CUSTOMER

Instructions for completing this report are on the last page of this form.

WELL I.D.# ~~LO7822~~

SALEM OREGON

Exhibit A - Page 2

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WATER RESOURCES DEPT
SALEM, OREGON

Exhibit B - Page 1



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SALEM, OREGON



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SALEM, OREGON



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Exhibit B - Page 6



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WATER RESOURCES DEPT
SALEM, OREGON





Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1271
(503) 986-0900
www.wrd.state.or.us

Application for a Permit to Use Ground Water

Please type or print in dark ink. If your application is found to be incomplete or inaccurate, we will return it to you. If any requested information does not apply to your application, insert "n/a." Please read and refer to the instructions when completing your application. A summary of review criteria and procedures that are generally applicable to these applications is available at www.wrd.state.or.us/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

A. Individuals

Applicant: _____
First Last

Mailing address: _____

City State Zip

Phone: _____
Home Work Other

*Fax: _____ *E-Mail address: _____

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: Barnett Estate Partnership

Name and title of person applying: Contact for information: Don Hilderbrand

Mailing address of organization: P.O. Box 273

Wasco OR 97065
City State Zip

Phone: Donald - 541-980-9272
Day Evening

*Fax: _____ *E-Mail address: _____

* Optional information

For Department Use

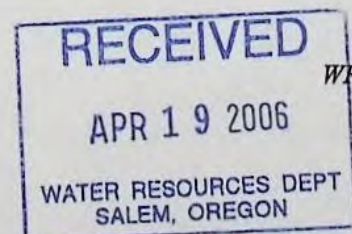
App. No. G-166663

Permit No. _____

Date _____

Last updated: 6/7/2005

Ground Water/1



WR

2. PROPERTY OWNERSHIP

Do you own all the land where you propose to divert, transport, and use water?

☐ Yes (Skip to section 3 "Ground water Development.")

☒ No (Please check the appropriate box below.)

☒ I have a recorded easement or written authorization permitting access.

☐ I do not currently have written authorization or easement permitting access.

☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040).

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

List the names and mailing addresses of all affected landowners.

Road Crossing _____

Sherman County Road Department _____

P.O. Box 365 _____

Moro, OR 97039 _____

3. GROUND WATER DEVELOPMENT

A. Well Information

Number of well(s): 1

Name of nearest surface water body: Spanish Hollow (Intermittent)

Distance from well(s) to nearest stream or lake: 1) 300 feet

2) _____ 3) _____ 4) _____

If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head. 1) +30 feet

2) _____ 3) _____ 4) _____

B. Well Characteristics

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 constructor's log and the well ID number, if available, for each well with this application. Identify each well with a number corresponding to the wells designated on the map and proceed to section 4 of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

Well(s) will be constructed by: Charles Austin WWC# 790

Address: _____

Completion date: 10/10/2005

Ground Water/2

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SALEM, OREGON

G-16663

Please provide a description of your well development. (*Attach additional sheets if needed.*)

Well No.	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
		See attached	copy of	well log	for	L-70770			

Note: Well numbers in this listing must correspond to well locations(s) shown on accompanying map.

If well log is not available, or well is not yet constructed, you must provide: proposed total depth, depth of casing and seal, and the anticipated perforation and open intervals.

C. Artesian Flows

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

At the present time there is a 12 inch butterfly valve attached at the flange.

4. WATER USE

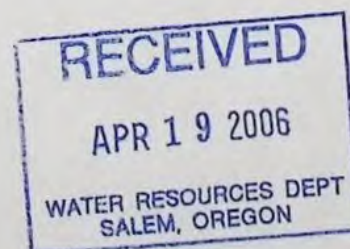
Please read the instruction booklet for more details on "type of use" definitions, how to express how much water you need and how to identify the water source you propose to use. You must fill out a supplemental form for some uses as they require specific information for that type of use.

A. Type(s) of Use(s)

See list of beneficial uses provided in the instructions.

- If your proposed use is **domestic**, indicate the number of households to be supplied with water; _____
- If your proposed use is **irrigation**, please attach **Form I**
- If your proposed use is **mining**, attach **Form R**
- If your proposed use is **municipal or quasi-municipal**, attach **Form M**
- If your proposed use is **commercial/industrial**, attach **Form Q**

Ground Water/3



6-16663

B. Amount of Water

Provide the production rate in gallons per minute (gpm) and the total annual amount of water you need from each well, from each source or aquifer, for each use. You do not need to provide source information if you are submitting a well log with your application.

Well No.	Source or aquifer	Type of use	Total rate of water requested (in gpm)	Total annual quantity (in gallons)	Production rate of well (in gpm)
L-70770	Basalt	Irrigation	1346.4	595,718,970	1364.4
		Industrial Use	1346.4	706,475,385	1346.4
		Commercial Use	1364.4	706,475,385	1364.4
		* See Remarks			

C. Maximum Rate of Use Requested

What is the maximum, instantaneous rate of water that will be used? 3 cfs
(The fees for your application will be based on this amount.)

D. Period of Use

Indicate the time of year you propose to use the water: Irrigation - Mar 1 to October 31, * See Remarks
(For seasonal uses like irrigation give dates when water use would begin and end, e.g. March 1-October 31.)

E. Acreage

If you will be applying water to land, please give the total number of acres where water will be applied or used: 606.1
(This number should be consistent with your application map.)

5. WATER MANAGEMENT

A. Diversion

What equipment will you use to pump water from your well(s)?

- ☒ Pump (give horsepower and pump type): Total of 125 to 150 HP of submersible & centrifugal pumps
- ☐ Other means (describe): _____

B. Transport

How will you transport water to your place of use?

- ☐ Ditch or canal (give average width and depth):
 Width _____ Depth _____
- Is the ditch or canal to be lined? ☐ Yes ☐ No
- ☒ Pipe (give diameter and total length):
 Diameter 16", 12" and 10" mainline Length 13200 feet
- ☒ Other (describe) Could be 4-1/4 mile center pivots or 32- 1/4 mile wheel lines plus hand lines to fill in

Ground Water/4

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SALEM, OREGON

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C. Application/Distribution Method

What equipment will you use to apply water to your place of use? _____

Irrigation or land application method (check all that apply):

- | | | |
|--|--|--|
| ☐ Flood | ☐ High-pressure sprinkler | ☒ Low pressure sprinkler |
| ☐ Drip | ☐ Water cannons | ☒ Center pivot system |
| ☒ Hand lines | ☒ Wheel lines | |
| ☐ Siphon tubes or gated pipe with furrows | | |
| ☐ Other, describe _____ | | |

Distribution method

- ☒ Direct pipe from source ☐ In-line storage (tank or pond) ☐ Open canal

D. Conservation

What methods will you use to conserve water? Why did you choose this distribution or application method? For example, if you are using sprinkler irrigation rather than drip irrigation, explain. If you need additional space, attach a separate sheet.

Flow meter, soil moisture monitoring, possibly low pressure center pivots,

6. PROJECT SCHEDULE

Indicate the anticipated dates that the following construction tasks should begin. If construction has already begun, or is completed, please indicate that date.

Proposed date construction will begin: Complete (Well constructed)

Proposed date construction will be completed: 10/1/2010

Proposed date beneficial water use will begin: 10/1/2010

7. REMARKS

If you would like to clarify any information you have provided in the application, please do so here and reference the specific application question you are addressing.

4 B - Use Storage in Pond #1	2.5 Acre Feet	814625 gallons	1346.4 gpm
------------------------------	---------------	----------------	------------

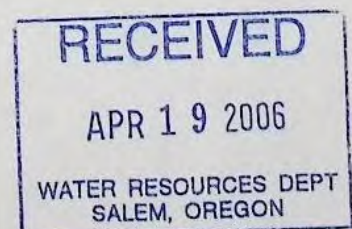
Maintenance of Pond #1 & #2	19 gpm	2443875 gallons	19 gpm
-----------------------------	--------	-----------------	--------

4 D - Industrial and Commercial - Year Around; Pond #1 and #2 - Year Around

Project will be developed in phases, maybe 1 1/4 section (160 acres) at a time.

The request for Industrial Use and Commercial Use are speculative at this time.

Ground Water/5



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8. MAP REQUIREMENTS

The Department cannot process your application without accurate information showing the source of water and location of water use. You must include a map with this application form that clearly indicates the township, range, section, and quarter/quarter section of the proposed well location and place of use. The map must provide tax lot numbers. See the map guidelines sheet for detailed map specifications.

9. SIGNATURE

By my signature below I confirm that I understand:

- I am asking to use water specifically as described in this application.
- Evaluation of this application will be based on information provided in the application packet.
- I cannot legally use water until the Water Resources Department issues a permit to me.
- If I get a permit, I must not waste water.
- If development of the water use is not according to the terms of the permit, the permit can be canceled.
- The water use must be compatible with local comprehensive land use plans.
- Even if the Department issues a permit to me, I may have to stop using water to allow senior water right holders to get water they are entitled to, and

I swear that all information provided in this application is true and correct to the best of my knowledge:

The Barnett Est By Donald W H Jodeland Managers 3/29/06
Signature of Applicant (If more than one applicant, all must sign.) Date

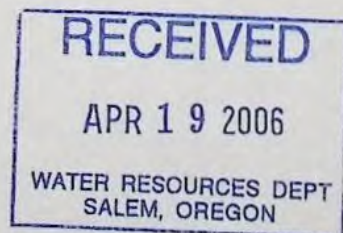
Before you submit your application be sure you have:

- Answered each question completely.
- Attached a legible map which includes township, range, section, quarter/quarter and tax lot number.
- Included a Land Use Information Form or receipt stub signed by a local official.
- Included the legal description of all the property involved with this application. You may supply a copy of the deed, land sales contract, or title insurance policy, to meet this requirement.
- Included a check payable to the Oregon Water Resources Department for the appropriate amount. The Department's fee schedule can be found at www.wrd.state.or.us or call (503) 986-0900.

FEES
\$ 300 Base
\$ 200 1st c/s
\$ 200 2nd & 3rd c/s
\$ 250 Permit
\$ 950 Total
60 3A-ft storage
\$ 1010

WRD on the web:
www.wrd.state.or.us

Ground Water/6



6-16663



Oregon Water Resources Department

FORM I FOR IRRIGATION WATER USE

1. Please indicate whether you are requesting a primary or supplemental irrigation water right.

☒ Primary ☐ Supplemental

If supplemental, please indicate the number of acres that will be irrigated for each type of use.

Primary: 606.1 Acres

Secondary: _____ Acres

List the permit or certificate number of the primary water right: No. _____

2. Please list the anticipated crops you will grow and whether you will be irrigating them for a full or partial season:

- | | | |
|------------------------------------|---|--|
| 1. <u>Aflafa</u> | ☒ Full season | ☐ Partial season (from: _____ to _____) |
| 2. <u>Wheat</u> | ☒ Full season | ☐ Partial season (from: _____ to _____) |
| 3. <u>Vegatable Crops for Seed</u> | ☒ Full season | ☐ Partial season (from: _____ to _____) |
| 4. <u>Orchard</u> | ☒ Full season | ☐ Partial season (from: _____ to _____) |

3. Indicate the maximum total number of acre-feet you expect to use in an irrigation season:

1818.3 acre-feet

(1 acre-foot equals 12 inches of water spread over 1 acre, or 43,560 cubic feet, or 325,851 gallons.)

4. How will you schedule your applications of water? Will you be applying water in the evenings, twice a week, daily?

- | | |
|---|---|
| ☒ Daily during daytime hours | ☐ Daily during nighttime hours |
| ☐ Two or three times weekly during daytime | ☐ Two or three times weekly during nighttime |
| ☐ Weekly, during daytime hours | ☐ Weekly, during nighttime hours |
| ☐ Other, explain: _____ | |

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SALEM, OREGON

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Oregon Water Resources Department

FORM Q
FOR COMMERCIAL AND INDUSTRIAL WATER USES

1. Describe the goods and services you plan to provide:

The filing for Industrial and Commercial Uses is speculative at this time. See attached page.

2. How will the water be used?

Depends on what the final business is, if one is developed.

3. What is the maximum amount of water that will be used on any given day:

3 ☒ cfs ☐ gpm

4. Are there periods of the day, week, month, or year that the water will not be used?
(e.g. no use December-March)

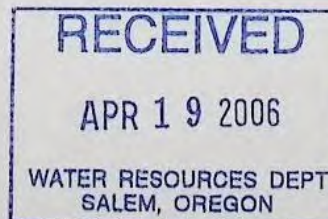
☒ No ☐ Yes If so, when? _____

5. Is there a particular time or period of day, week, month, or year when the use of water is absolutely essential for the project to continue? (e.g. vegetable processing, Oct. 15-Nov. 15)

☒ No ☐ Yes If so, when? _____

6. Are there periods of the day week, month, or year where the amount of water used will be less than at peak times?

☒ No ☐ Yes If so, when? _____



Last revision: April 9, 1996

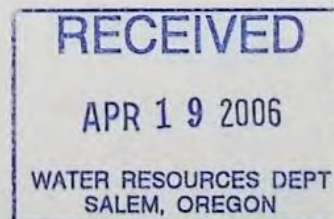
C-16663

Form Q Attachment

The inclusion of Industrial and Commercial Use on this application is speculative in nature. The land, NW ¼ Section 4 lays between the City of Wasco city limits and a parcel of land that has a commercial use on it. This land is currently zoned for agriculture. There has been some talk recently about changing the zoning on some of the land in this area.

If no zoning change is made, we know that the industrial/commercial portion of this application for water rights can not be developed and the land will be irrigated.

Some things that have been discussed for possible uses are some agricultural product processing facility, water bottling facility, equipment sales business or a small industrial park with multiple lots. This land being on the old Highway 97 road and next to town would be an ideal location for businesses that need truck access.



G-16663

STATE OF OREGON
WATER SUPPLY WELL REPORT

(as required by ORS 537.765)

Instructions for completing this report are on the last page of this form

WELL ID # L L70770

(START CARD) # 168541

(1) OWNER:

Well Number: _____

Name The Barnett Est. (Don Hilderbrand)Address P.O. Box 273City Wasco State OR Zip 97065

(2) TYPE OF WORK:

☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:

☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other _____

(4) PROPOSED USE:

☐ Domestic ☐ Community ☐ Industrial ☒ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other _____

(5) BORE HOLE CONSTRUCTION:

Special Construction approval ☐ Yes ☒ No Depth of Completed Well 142 ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE			SEAL			Amount	
Diameter	From	To	Material	From	To	sacks or pounds	
20"	0	20	Cement	0	20'	18 Sacks	
16"	20'	102'	Cement	0	102'	101 Sacks	
12"	102'	142'					

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	Steel	Plastic	Welded	Threaded
Casing:	16"	+1	20'	.250	☒	☐	☒	☐
	12"	+2'	102'	.250	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of shoe(s) 102

(7) PERFORATIONS/SCREENS:

☐ Perforations Method _____
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐

(8) WELL TESTS: Minimum testing time is 1 hour

☐ Pump ☐ Bailor ☐ Air ☒ Flowing ArtesianYield gal/min 180 Drawdown 0% Drill stem at _____ Time 1 hr.Temperature of Water 57 Depth Artesian Flow found 128Was 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: 80 to 89

(9) LOCATION OF WELL by legal description:

County Sherman Latitude 45.60119N Longitude 120.7082W
Township 1N N or S. Range 17E E or W. of W.M.
Section 4 SW 1/4 NW 1/4
Tax lot 800 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) 71025 N. Old Highway
97, Wasco, Or

(10) STATIC WATER LEVEL:

_____ ft. below land surface. Date _____
Artesian pressure 24 lb. per square inch. Date 10/08/2005

(11) WATER BEARING ZONES:

Depth at which water was first found 80

From	To	Estimated Flow Rate	SWL
80	89	80	22'
128	133	180	+55.4

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
Soil	0	2	
Basalt Hard Gray	2	4	
Rock Fract. Brown	4	15	
Basalt Hard Gray	15	33	
Basalt Fract. Black	33	60	
Basalt Brown Med.	60	64	
Clay Yellow	64	80	
Rock Decomposed Brown W/B	80	89	22
Basalt Hard Gray	89	128	
Basalt Fract. Med. Gray W/B	128		
Flowing		133	
Basalt Hard Gray	133	138	
Basalt Fract. Hard Gray	138	142	

Bottom of well is plugged with a wood plug with bentonite on top of wood and topped with cement. Plug is from 134 to 142 ft.

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SALEM, OREGONDate started 08/30/2005Completed 10/10/2005

(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 water supply well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed _____ WWC Number _____
Date _____

(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 water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Charles Austin WWC Number 790
Date 10/28/2005

ORIGINAL - WATER RESOURCES DEPARTMENT

FIRST COPY - CONSTRUCTOR

SECOND COPY - CUSTOMER

APR 19 2006

WATER RESOURCES DEPT
SALEM, OREGON

G-16663

For Local Government Use Only

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

A. Allowed Use

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): 3.1.2(a). Go to section B "Approval" below.

Irrigation only
☒ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Commercial & Industrial

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval:	
Rezone or CUP	Chapter 3	☐ Obtained ☐ Denied	☐ Being pursued ☒ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued

Note: Please attach documentation of applicable local land use approvals which have already been obtained. (Record of Action/land use decision and accompanying findings are sufficient.)

B. Approval

Please provide printed name and written signature. For Irrigation only

Name: Georgia H. Macnab Date: 4-4-06

Title: Sherman Co Planning Director Phone: 541-565-3601

Signature: Georgia H. Macnab

C. Additional Comments

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.

If the applicant proposes to do any additional development other than farm uses on this property such as a commercial or industrial project, he will need to come back and obtain land use approval.

Note: If this form cannot be completed while the applicant waits, sign and detach the receipt stub as instructed below. You will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Name of applicant: Don Hilderbrand

This receipt must be signed by a local government representative and returned to the applicant at the time they present this form. This receipt must be included with the application filed with the Water Resources Department if the local government cannot provide the requested land use information while the applicant waits.

City or County: Sherman County
Staff contact: Georgia Macnab Phone: 541-565-3601
Signature: Georgia H. Macnab Date: 4-4-06

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SALEM, OREGON

6-16663



Oregon Water Resources Department Land Use Information Form

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. WRD will use this and other information to evaluate the water use application. THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water right transfer, allocation of conserved water, or exchange and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm use zone.

To Be Completed By Applicant

This section must be completed by the individual or group that is filing an application with the Water Resources Department. Attach a copy of the map from the application to this form.

A. Applicant

Name: Barnett Estate Partnership c/o Donald Hilderbrand

Address: P.O. Box 273

City: Wasco State: OR Zip: 97065 Day Phone: 541-980-9272

B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (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 I.D.	Plan Designation (e.g. Rural Residential/RR-5)	Water to be: (check all that apply)			Proposed Land Use
2N 17 7600		☐ Diverted	☒ Conveyed	☒ Used	Irrigation
1N 17 800		☒ Diverted	☒ Conveyed	☒ Used	Irrig & Indust & Comm
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	
		☐ Diverted	☐ Conveyed	☐ Used	

List counties and cities where water is proposed to be diverted, conveyed, or used. Sherman County

C. Description of Proposed Use

Indicate the type of application to be filed with the Water Resources Department.

☒ Water Use Permit ☐ Water Right Transfer ☐ Allocation of Conserved Water ☐ Exchange

Indicate the intended use of water and describe the key characteristics of the project.

☒ Commercial ☒ Industrial ☐ Instream ☒ Irrigation
☐ Municipal ☐ Quasi-municipal ☐ Domestic (indicate number of households) _____
☐ Other _____

Briefly describe: Irrigation of up to 609.4 acres of crop land. Possibility of industrial and/or commercial use in future on the NW 1/4 Section 4. The industrial and commercial use is speculative at this time and we realize future planning actions would be required for this to happen.

Indicate the source of the water to be used.

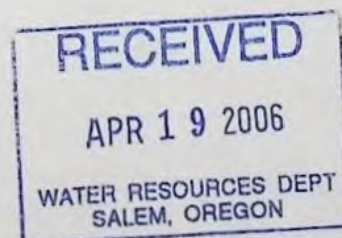
☐ Reservoir/Pond ☒ Ground Water ☐ Surface Water _____ (source)

Indicate the estimated quantity of water the use will require: 3 ☒ CFS ☐ GPM ☐ Acre-Feet

Last revised: 04/06/04

Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1271
(503) 986-0900



G-166663

EXHIBIT A

TO

PARTNERSHIP AGREEMENT OF THE BARNETT ESTATE

Legal description of real property to be contributed to
the partnership:

The NW 1/4 and the SE 1/4 of Sec. 33, Twp. 2 N. R. 17
E. of W.M. and the N 1/2 of Sec. 4 and the NW 1/4 of
Sec. 3, Twp. 1 N. R. 17 E. of W.M.;

Excepting, however, that portion thereof conveyed to
Arthur J. Smith, et ux, by Deed filed August 28, 1930
in Book W Page 36.

Further excepting that portion of the property conveyed
to Anna Lee by Deed filed August 28, 1930 in Book W
Page 37.

Further excepting that portion of the property conveyed
to the State of Oregon by Deed filed April 14, 1937 in
Book Y Page 152.

Further excepting that portion in County Roads.

All in the County of Sherman, State of Oregon.

Exhibit A-1

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SALEM, OREGON

G-166663

SHERMAN COUNTY ROAD DEPARTMENT

PO Box 365

Moro, OR 97039

Phone: 541 565-3271

FAX: 541 565-3312

APPLICATION FOR UTILITY EASEMENT ON COUNTY ROADS

DATE: 3/18/06

NAME OF APPLICANT OR COMPANY: BARNETT Est

ADDRESS: PO Box 273
WASCO OR

NAME OF CONTACT PERSON: Don, Gena Hilderbrand

PHONE: 980 9272 442 5512

LOCATION OF AFFECTED COUNTY ROADS:

1) ROAD NAME(S): Scott Canyon Road

2) ROAD NUMBER(S): SC 525

TYPE OF BURIED UTILITY: Primary Electrician + WATER MAIN

TYPE OF OVERHEAD UTILITY: _____

ADDITIONAL INFORMATION: _____

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SALEM, OREGON

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RESPONSIBILITIES OF APPLICANT

- 1) Applicant completes application for review.
- 2) Applicant provide traffic control where and as needed.
- 3) Applicant to provide description of work and map of affected roads.
- 4) Applicant responsible for getting needed utility locations.
- 5) Applicant installing overhead utilities will locate utility at outermost compliant edge of roadway.
- 6) Buried utilities routes will be compacted on gravel roads.
- 7) Buried utilities on paved roads will be buried at least five feet past outermost edge of pavement and permitted by roadmaster on each paved road.
- 8) Pavement cutting or underpavement routing will be cleared with roadmaster at each individual site on a one by one basis.
- 9) Pavement cutting will be fill with flowable back fill material and cap with 3 inches of hot mix. (Flowable backfill material can be purchased at either concrete places.)
- 10) Any surveyor work will be contracted and paid by applicant where needed.
- 11) Provide map of route.

Declaration and signature of Applicant:

I DECLARE THAT I HAVE READ AND UNDERSTAND MY RESPONSIBILITIES WITH REGARD TO THE APPLICATION, THAT I AGREE TO ANY TERMS AND CONDITIONS THAT MAY ARISE UNDER THE PERMIT, AND THAT I HAVE THE AUTHORITY TO BIND MYSELF AND OTHERS WHO MAY BE COMPLETING WORK UNDER THIS PERMIT TO ITS PROVISIONS.

Donald H. Deland manager The Barnett Est
Signature

manager
Title

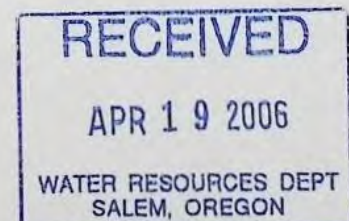
Approval of Sherman County Road Department

[Signature]
Signature

Road Master
Title

3-21-06
Date

This Permit Expires: 3-21-07



G-116663



TENNESON

ENGINEERING CORPORATION

CONSULTING ENGINEERS • SURVEYORS • PLANNERS

409 LINCOLN STREET
THE DALLES, OR 97058

PHONE (541) 296-9177
FAX (541) 296-6657

LETTER OF TRANSMITTAL

TO: Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-2430

Date: 4/17/2006	Work Order # 11484
Attention	
RE: Water Rights	
New Applications	

ENCLOSED ARE THE FOLLOWING:

QUANTITY	DESCRIPTION
1	Reservoir (Alternate Review) Application
1	Groundwater Application
1	Form I
1	Form Q with attachment
1	Sherman County Road Department Utility Easement
1	Well Log L-70770
1	Legal Description
1	Land Use Form
1	Application Map
1	Filing Fee – Check in the amount of \$1,100

THESE ARE TRANSMITTED (as checked below)

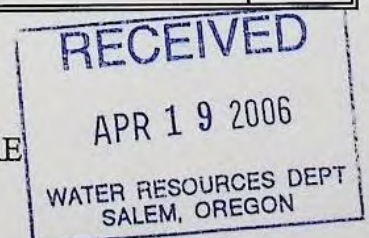
☐ For testing ☐ As requested ☒ Filing/Recording
☐ For your use ☐ Approved as noted ☐ For your review & comment

Remarks: Check Breakdown: Reservoir Application \$ 90.00 <u>1,010.00</u> <u>\$1,100.00</u>	SF Blueline	
	SF Mylar	
	Xerox	
	Tube, Mailer, Etc.	
	P & H	
	TOTAL	

PICKED UP BY:
DELIVERED BY:
COPY TO: Barnett Estate

BY: Larry M. Toll, CWRE

If enclosures are not as noted, please notify us at once.



G-16663

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **80922**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172
(503) 986-0900 / (503) 986-0904 (fax)

INVOICE #

G-16663

RECEIVED FROM: **Tennessee Engineering Corp**

APPLICATION **R-86559**

BY:

PERMIT
TRANSFER

CASH: ☐ CHECK:# **32370** OTHER: (IDENTIFY) ☐

TOTAL REC'D **\$1100.00**

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES **PCA-46111** \$
OTHER: (IDENTIFY) \$

0243 I/S Lease 0244 Muni Water Mgmt. Plan 0245 Cons. Water

4270 WRD OPERATING ACCT

MISCELLANEOUS **G-16663 = 950.00 1010.00**
0407 COPY & TAPE FEES **R-86559 = 150.00 90.00** \$
0410 RESEARCH FEES \$
0408 MISC REVENUE: (IDENTIFY) \$
TC162 DEPOSIT LIAB. (IDENTIFY) \$
0240 EXTENSION OF TIME \$

WATER RIGHTS:

0201 SURFACE WATER **ALT Res** EXAM FEE \$ **150.00** 0202 RECORD FEE \$
0203 GROUND WATER EXAM FEE \$ **700.00** 0204 \$ **250.00**

0205 TRANSFER \$

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR EXAM FEE \$ 0219 LICENSE FEE \$
LANDOWNER'S PERMIT 0220 \$

OTHER (IDENTIFY)

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE \$ CARD #
0210 MONITORING WELLS \$ CARD #
OTHER (IDENTIFY)

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD) \$
0231 HYDRO LICENSE FEE (FW/WRD) \$
HYDRO APPLICATION \$

TREASURY OTHER / RDX

FUND TITLE

OBJ. CODE VENDOR #

DESCRIPTION \$

RECEIPT: **80922**

DATED: **4-19-06** BY: **Jean Smith**

Distribution - White Copy - Customer, Yellow Copy - Fiscal, Blue Copy - File, Buff Copy - Fiscal

TENNESON ENGINEERING CORP

Oregon Water Resources Department

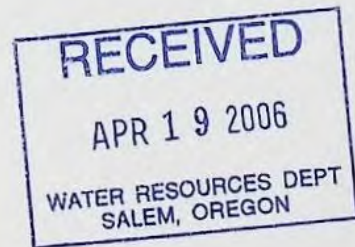
32370

Date	Type	Reference
4/17/2006	Bill	

Original Amt.
1,100.00

04/17/2006	Balance Due	Discount
	1,100.00	
	Check Amount	

Payment
1,100.00
1,100.00



Columbia River Bank W. O. 11484, Barnett Estate

1,100.00

G-16663

DON HILDERBRAND

BARNETT ESTATE PARTNERSHIP

PO BOX 148

WASCO, OR 97065

G-16663

DON HILDERBRAND

BARNETT ESTATE PARTNERSHIP

PO BOX 148

WASCO, OR 97065

G-16663

DON HILDERBRAND

BARNETT ESTATE PARTNERSHIP

PO BOX 148

WASCO, OR 97065