

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE QUARTER ALL  
NW QUARTER ALL  
SW QUARTER ALL

SECTION 16

TOWNSHIP 15 SOUTH, RANGE 12 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, at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured. 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.

This permit will expire in 2 years from permit issuance unless the 2 year lease of the water right authorized under certificate 74145 to instream purposes is replaced by a permanent transfer of water right certificate 74145, filed as transfer application T 8519, or an equivalent water right as determined by the Department, to instream use.

Within one year of permit issuance, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The Director may approve an extension of this timeline to complete the required Water Management Conservation Plan.

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(s) 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. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

#### STANDARD CONDITIONS

The wells 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.

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

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.

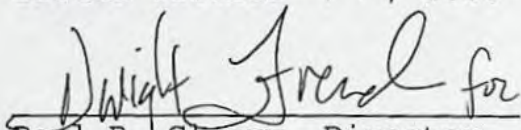
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

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

Actual construction of the well shall begin by May , 2001. Complete application of the water to the use shall be made on or before October 1, 2005. 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 October 17, 2000

  
Paul R. Cleary, Director  
Water Resources Department

NOTE: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

Application G-14857  
Basin 5  
AMH

Water Resources Department  
Volume 1 DESCHUTES R & MISC  
MGMT.CODES 7BG 7BR 7CG 7CR

PERMIT G-13856  
District 11

EX. 1

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Water Right	)	
Application G 14857 in the Name	)	FINAL ORDER APPROVING
of William D. Lyche, for Eagle Crest	)	APPLICATION AND DENYING
Inc.	)	PROTEST
<i>Applicant</i>	)	
	)	
WaterWatch of Oregon, Oregon Trout	)	
and Trout Unlimited.	)	
<i>Protestants</i>	)	

Appeal Rights

This is a final order other than contested case. Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition the Director for reconsideration of this order or petition for judicial review of this order. As provided in ORS 536.075, this order is subject to judicial review under ORS 183.484. Any petition for judicial review of the order must be filed within the 60 day time period specified by ORS 183.484(2).

Background

On November 2, 1998, William D. Lyche, on behalf of Eagle Crest Inc., (Applicant) submitted an application to the Oregon Water Resources Department (Department) for 3.34 cubic feet per second (cfs) of water for quasi-municipal use. The water is to be taken from a well in the Deschutes River Basin and used year round in Deschutes County to support housing, amenities and fire protection for the Eagle Crest resort.

On May 21, 1999, the Department mailed the applicant its Initial Review providing that the proposed use would not protect the public health welfare and safety unless applicant mitigated for the effects the proposed ground water use would have on surface waters in the Deschutes River. On June 24, 1999, the Department gave public notice of the application in its weekly notice. The Department received one comment from William D. Lyche, requesting that the application be withheld from processing until September 1, 2000.

On September 13, 1999, Thomas A. Walker, certified water rights examiner for the applicant, proposed a mitigation plan to the Department and requested the Department to review the plan and proceed with the application.

On February 15, 2000, the Department issued its proposed final order (PFO) for Application G 14857, and on March 31, 2000, WaterWatch of Oregon, Oregon Trout and Trout Unlimited filed a protest. Protestants argue that the application should be denied because the proposed use fails to protect the public health, welfare and safety. Specifically, they argue that the mitigation plan does not protect fisheries or the State Scenic Waterway values of the Deschutes River. They also contend that the use is not beneficial because the permit is subject to cancellation should the mitigation fail to become permanent, and they argue that the use is not consistent with the Middle Deschutes River Basin Plan.

### **Findings of Fact and Conclusions of Law**

In its application, Eagle Crest requested up to 1500 gpm of water for resort use and for fire protection. (Exhibit A)

Under the provisions of ORS 537.621, the Department shall presume that a proposed ground water use will ensure the preservation of the public welfare, safety and health if: 1) the proposed use is allowed in the applicable basin program; 2) water is available; 3) the proposed use will not injure other water rights; and 4) the proposed use complies with the rules of the Commission. OAR 690-310-130. In its Initial Review, the Department concluded that all criteria for establishing the presumption were not satisfied because water was not available for the proposed use unless the applicant proposed a mitigation plan to satisfactorily address the impact of the proposed ground water use on surface water flows in the Deschutes River. (Exhibit B)

Pursuant to OAR 690-310-140(3), if the Department determines that the presumption is not established, the Department shall determine whether the proposed use will impair or adversely affect the public welfare, safety and health, and may:

Make specific findings to demonstrate that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety and health and propose approval of the application with appropriate modifications or conditions.

In its PFO, the Department determined that the proposed use will not impair or adversely affect the public welfare, safety and health if the applicant adheres to the specific elements outlined in a mitigation plan approved by the Department. Specific conditions implementing the mitigation plan proposed by Eagle Crest and approved by the Department are incorporated in the Draft Permit for Application G 14857. (Exhibit C)

Eagle Crest has demonstrated that according to historic resort water use, full build out of the proposed 900 residential units and recreational amenities, minus the amount offset by sewage contribution, would consume 115 acre-feet (AF) of water each year. (Exhibit D)

Eagle Crest's mitigation plan provides gallon for gallon replacement of the consumed water used by its resort by immediately leasing instream, for two years, 21.0 acres of an irrigation water right it holds under Certificate 74145 with a priority date of September 1, 1899. The total volume of water under this lease would be 115.27 AF. (Exhibit D)

On May 9, 2000, a two year instream lease for portions of Certificate 74145 was signed by the Department. The total water leased is 115.27 acre feet. The proposed reach of the instream right created under the lease will be in the Deschutes River from river mile 165 (North Canal Dam), downstream to river mile 120 (Lake Billy Chinook). The rate of the instream water right is 0.142 cfs during season #1 (April 1 through May 1 and October 1 through November 1), 0.190 cfs during season #2 (May 1 through May 15 and September 15 through October 1) and 0.352 cfs during season #3 (May 15 to September 15).

According to the Department-approved mitigation plan, this same water will be transferred on a permanent basis to an instream right.

On May 16, 2000, the Department received an application from Eagle Crest for permanent transfer instream for the same portions of Certificate 74145.

Protestants assert that the proposed use would harm fish and State Scenic Waterway flows in the Deschutes because the short term lease is insufficient to mitigate the permanent nature of the water use. They also argue that the mitigation plan is unenforceable because the plan per se is not a condition of the permit.

The Department has incorporated key elements of the mitigation plan in its permit, thus creating a permanent, enforceable water right that protects surface flows in the Deschutes River.

The permit assures that the mitigation plan replaces consumptive water use both as presently anticipated, and as it may actually occur in the future. The permit also assures that the proposed use will protect fisheries and State Scenic Waterway values in that:

1. It limits consumption to no more than 115 acre-feet each year, unless the mitigation plan is modified and approved by the department to match acre-foot for acre-foot any increased usage. (Exhibit C at 1.)
2. It provides that if measurement of water use demonstrates that the mitigation plan is not sufficient to mitigate for the amount of water actually consumed, then the permittee will be restricted to 115 acre-feet per year. (Exhibit C at 1.)
3. It provides that any change in consumptive use must be mitigated for acre-foot for acre foot by instream water maintained with an equivalent water right with a diversion point at or near the diversion authorized by the lease of certificate 74145. (Exhibit C at 1.)

4. It requires Eagle Crest to submit a Water Management and Conservation Plan pursuant to OAR Chapter 690 Division 86 as efficient water use will help protect the public health, safety and welfare. (Exhibit C at 2.)

The permit assures that the mitigation plan is enforceable in that:

1. It provides that the actual consumptive use will be measured on a regular basis and that such measurements will be recorded and reported to the Department. (Exhibit C at 2, Condition (A).)
2. It provides standard conditions of watermaster access, well construction and measurement and reporting. (Exhibit C at 2 & 3.)
3. It provides that the permit will expire in 2 years from permit issuance if the 2-year lease of the water right authorized under Certificate 74145 to instream purposes is not replaced by a permanent transfer of water leased under Certificate 74145, or by an equivalent water right as determined by the Department. (Exhibit C at 1.)

The proposed use will provide a "net benefit" for native resident and anadromous fish recovery in the Deschutes River pursuant to OAR 690-33-140(b) because of the timing and place of the instream releases, and because the releases will exceed or equal Eagle Crest's consumptive use.

The proposed ground water use is consistent with the Middle Deschutes River Basin rules at OAR 690-505-002. The mitigation plan as it is expressed in the permit effectively mitigates for any impacts to surface water flows in this basin.

Because the permit effectively incorporates specific conditions that ensure implementation of an effective, permanent and enforceable mitigation plan that provides a net benefit to native fish species, the applicant can make beneficial use of this water right, and the proposed use will not adversely impair or affect the public welfare, safety and health.

Within 60 days after the close of the period for receiving protests, the Water Resources Director shall schedule a contested case hearing if a protest has been submitted and if: either the Director finds there are "significant disputes" related to the proposed use of water, or the applicant requests a hearing within 30 days of the close of the protest period. ORS 537.622. The Director finds that based on the evidence in the record, there are no "significant disputes" related to the Application G 14857, therefore, no contested case shall be scheduled.

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 presumption described in ORS 537.621(2) has not been established because without mitigation, water is not available. However, with the approved mitigation plan, the Department finds that even though the presumption is not established, the proposed use will not impair or adversely affect the public health, safety and welfare.

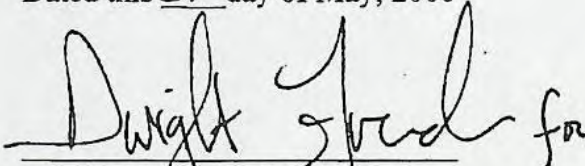
The approved mitigation plan as it is expressed in the permit conditions will prevent injury to existing instream and consumptive water rights.

The findings of fact and conclusions of law contained in the PFO are incorporated herein.

### Order

The protest filed by WaterWatch of Oregon, Oregon Trout and Trout Unlimited is denied. Application G 14857 is approved and the accompanying water use permit shall issue.

Dated this 26<sup>th</sup> day of May, 2000



Martha O. Page, Director  
Water Resources Department



## CONVERSATION RECORD

(541) 388-4255  
Fax (541) 388-4229

λ Planning      λ Surveying  
λ Engineering   λ Landscape Architecture

Conversation with: Dwight French Oregon Water Resources Department	Date: June 7, 2006
Distribution: Alan VanVliet Ric Kuss	Time:
Phone Number:	Type: <input checked="" type="checkbox"/> Telephone <input type="checkbox"/> Direct
Project: Eagle Crest III	By: Thomas A. Walker, P.E., C.W.R.E.
Job Number: 31250.1005	
Subject: Well No. 9	Action Required: <input type="checkbox"/> Yes <input type="checkbox"/> No

Within the past few weeks, I submitted correspondence to the Oregon Water Resources Department (OWRD) soliciting approval of additional mitigation for Well No. 9 at Eagle Crest III.

The Well No. 9 water right permit stipulates reporting of the annual volume of water consumed and providing additional mitigation as necessary. Operation of Well No. 9 in the Eagle Crest distribution system is preferred over other wells and a decision was made to offer the Swalley Irrigation District Conserved Water right as additional mitigation.

In a recent work session, I learned that environmental groups have adamantly opposed the use of Conserved Water for groundwater withdrawal mitigation in the Deschutes Basin. I worried that protests or opposition to the proposed Well No. 9 mitigation could delay or prohibit the desired use of Well No. 9. I called Dwight French and asked what processes is utilized to evaluate the additional mitigation and if he anticipated any issues with our proposal. I also expressed concerns with protests from environmental groups.

Dwight French responded to my questions and suggested that Eagle Crest had followed the process outlined in the water right permit. Dwight French would like to assure that conserved water can be used for mitigation, and not just in the Deschutes River Basin but throughout Oregon. Dwight suggested that Eagle Crest has done everything as required under the terms of the permit and he would hope and expect our request to move forward expeditiously.

Dwight French acknowledged that he was not certain of the process utilized to approve additional mitigation. Anita Huffman has been assigned the request. Dwight will contact Anita and we should expect additional information next week.

I did advise Dwight French that our use of water at Eagle Crest has not dramatically exceeded original estimates, as it might appear. Rather, Eagle Crest prefers the use of Well No. 9 because of air bubble issues in another well. Well No. 9 simply fits the needs of the overall system better and Eagle Crest has elected to provide additional mitigation, rather than deal with the air issues from another well. I suggested the public should benefit significantly because of the additional mitigation and associated increased flows in the middle reach of the Deschutes River. Dwight French agreed.

Washington • Oregon • Idaho



## Cline Butte Utility Co.

1230 GOLDEN PHEASANT DRIVE, REDMOND, OR 97756 ▲ 541-504-2305

May 16, 2006

Mr. Dwight French  
Manager, Water Rights Section  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, Oregon 97301-1271

**Re: Eagle Crest Inc. and Cline Butte Utility Company  
Permit G-13856  
Groundwater Withdrawal Mitigation  
WHP File No.: 31250.1005**

Dear Dwight,

The attached permit G-13856 authorizes quasi-municipal groundwater use for the Eagle Crest Resort in Deschutes County. Water use under the permit exceeded the original expectation and I am soliciting your approval of an additional and equivalent in-stream water right for groundwater withdrawal mitigation, to maintain a balance between the water consumed and the water provided in-stream. Your review and approval are respectfully requested.

Permit G-13856 authorizes a maximum diversion rate of 3.34 cubic feet per second, limited to a maximum diversion of 252 acre-feet each year and a consumption of no more than 115 acre-feet each year, once sewage contributions are subtracted. Water use in the last reporting year exceeded the previously mitigated annual volume of water use. As allowed in the permit, we propose to supplement the withdrawal mitigation to maintain the required balance.

Permit G-13856 stipulates that "the Department may approve an additional and equivalent water right to be leased to in-stream use, to maintain an acre-foot balance between the amount of water consumed to the amount of water provided to in-stream use. An equivalent water right must, at a minimum, be from a water right with a diversion point at or near the diversion authorized for the lease of certificate 74145."

The original permit G-13856 was issued in the name of Eagle Crest Inc. and subsequently assigned to Cline Butte Utility Company. Cline Butte Utility Company is a subsidiary of Eagle Crest Inc. and is generally responsible for operation and maintenance of the utility systems at Eagle Crest. Mitigation of water use under permit G-13856 is expected to be beneficial to the Deschutes River through the enhanced in-stream use and also beneficial to utility operations at the resort.

Eagle Crest Inc. and Cline Butte Utility Company request your approval to dedicate the Applicant's Share of the conserved water under your special order volume 61, page 630 to mitigate an additional annual volume under permit G-13856. A copy of the final order approving the allocation of conserved water is attached. The Applicant's share of the conserved water is 292 acre-feet per year. The conserved water, in combination with the prior established mitigation of 115 acre-feet, provides a total of 407 acre-feet per year for groundwater withdrawal mitigation under our proposal.

**RECEIVED**

**MAY 18 2006**

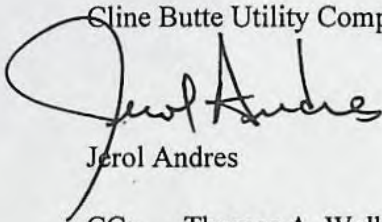
**WATER RESOURCES DEPT  
SALEM, OREGON**

The current Deschutes Basin Mitigation Rules stipulate a 40% consumptive rate for quasi-municipal use. Following the current Deschutes Basin Mitigation Rules, the 407 acre-feet per year of proposed mitigation would support an annual volume of 1017.5 acre-feet each year.

Please consider our proposal to supplement mitigation under permit G-13856 with the in-stream conserved water authorized under your special order volume 61, page 630. I look forward to your review and response.

Very truly yours,

Cline Butte Utility Company



Jerol Andres

CC: Thomas A. Walker, P.E., C.W.R.E.  
Alan VanVliet

Cc:

**RECEIVED**

**MAY 18 2006**

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SALEM, OREGON**



# 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

October 5, 2004

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OCT 11 2004

W & H PACIFIC, INC.

Eagle Crest, Inc.  
Alan VanVliet  
PO Box 1215  
Redmond, Oregon 97756

RE: Allocation of Conserved Water C-13

Enclosed is a copy of the Special Order Volume 61, Page 630, approving your allocation of conserved water application. The order was signed on September 30, 2004.

If you have any questions regarding this order, please contact Doug Parrow at 503-986-0881.

Sincerely,

Sarah Henderson  
Executive Support

Cc: Jeremy Giffin, Watermaster  
Douglas MacDougal, Schwabe, Williamson & Wyatt  
Tom Walker, W & H Pacific  
Jan Lee, Swalley Irrigation District

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BEFORE THE WATER RESOURCES DEPARTMENT  
OF THE  
STATE OF OREGON

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WATER RESOURCES DEPT  
SALEM, OREGON

In the Matter of the Proposed Allocation of )  
Conserved Water by Eagle Crest, Inc for )  
certificate 74145, Deschutes County, )  
Oregon )  
FINAL ORDER APPROVING  
ALLOCATION OF CONSERVED  
WATER

ORS 537.455 to 537.500; chapter 726, Oregon Laws 1997, as amended by chapter 394, Oregon Laws 1999; and OAR Chapter 690, Division 18, authorize and establish the process and criteria for allocations of conserved water.

**Findings of Fact**

1. Eagle Crest, Inc. filed an application for an allocation of conserved water. The Department assigned the application number C-13.
2. The application requests allocation of water conserved by a project involving lands with water rights confirmed under certificate 74145. Eagle Crest, Inc. is the owner of the lands affected by the proposed allocation and is a qualified applicant for allocation of conserved water. Swalley Irrigation District, in whose name the certificate was issued, approved the application.
3. The portion of the right affected by the proposed allocation of conserved water allows the use of water from the Deschutes River, a tributary of the Columbia River, for the irrigation of 169.4 acres in Sections 13, 14, 23 and 24, Township 15 South, Range 12 East, W.M. The priority date of the right is September 1, 1899.
4. Since issuance of the certificate in 1997, certificate 74145 has been modified by several water right transfers approved pursuant to ORS Chapter 540. The transfers did not involve the lands affected by the proposed allocation of conserved water.
5. Public notice was published as required under OAR 690-18-050.
6. The application includes a land use information form completed and signed by Deschutes County indicating that the required land use approvals have been obtained by the applicant.

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-080 and OAR 690-01-005 you may either petition for judicial review or petition the Director for reconsideration of this order.

7. The Oregon Department of Fish and Wildlife provided comments in support of the application and indicating that additional in-stream flow is needed to improve aquatic resources and their habitat.

8. Water for the applicant's lands may be diverted at either of two points of diversion. POD 3 is a part of Swalley Irrigation District's distribution system. POD 15 is at a point on the Deschutes River adjacent to the applicant's lands. The right includes a 43 percent allowance for transmission losses for uses from the main Swalley Canal. However, the allowance is not allowed for uses from POD 15.

9. The portion of the water right affected by the allocation of conserved water allows the diversion of the following quantities of water:

Period	At POD 3	At POD 15
Apr. 1 to May 1 & Oct. 1 to Nov. 1	2.04 cfs	1.16 cfs
May 1 to May 15 & Sept. 15 to Oct. 1	2.73 cfs	1.56 cfs
May 15 to Sept. 15	5.06 cfs	2.89 cfs
Annual Duty	1,623 ac-ft	925 ac-ft

10. The conservation project is complete and involves the use of a fully automated and controlled permanent underground sprinkler system for most irrigated areas. Agricultural wheel line sprinklers and large gun sprinklers are being used for pasture and ball field areas. Water use to the irrigated lands is measured by a water meter. The conservation project allows a reduction in the quantity of water required for the existing beneficial use diverted at POD 15 as follows:

Period	Existing Right at POD 15	Right after Allocation at POD 15	Conserved Water
Apr. 1 to May 1 & Oct. 1 to Nov. 1	1.16 cfs	0.85 cfs	0.31 cfs
May 1 to May 15 & Sept. 15 to Oct. 1	1.56 cfs	1.14 cfs	0.42 cfs
May 15 to Sept. 15	2.89 cfs	2.12 cfs	0.77 cfs
Annual Duty	925 ac-ft	508 ac-ft	417 ac-ft

11. The project was funded by the applicant and did not involve the use of federal or state non-reimbursable funds. The statutory formula for allocation of conserved water is 75 percent to the applicant and 25 percent to the state. This would yield the following allocation:

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Period	Conserved Water	Applicant's Share	State's Share
Apr. 1 to May 1 & Oct. 1 to Nov. 1	0.31 cfs	0.23 cfs	0.08 cfs
May 1 to May 15 & Sept. 15 to Oct. 1	0.42 cfs	0.31 cfs	0.11 cfs
May 15 to Sept. 15	0.77 cfs	0.58 cfs	0.19 cfs
Annual Duty	417 ac-ft	313 ac-ft	104 ac-ft

12. The applicant has agreed that, if conserved water is used out-of-stream, the conserved water will be allocated 70 percent to the applicant and 30 percent to the state. This yields the following allocation:

Period	Conserved Water	Applicant's Share	State's Share
Apr. 1 to May 1 & Oct. 1 to Nov. 1	0.31 cfs	0.22 cfs	0.09 cfs
May 1 to May 15 & Sept. 15 to Oct. 1	0.42 cfs	0.29 cfs	0.13 cfs
May 15 to Sept. 15	0.77 cfs	0.54 cfs	0.23 cfs
Annual Duty	417 ac-ft	292 ac-ft	125 ac-ft

13. The applicant has requested that the priority dates of the conserved water rights be the same as the priority date of the originating right.
14. The applicant's portion of the conserved water would be sufficient to irrigate 43.85 acres if applied at the same rate and duty as would be allowed under the applicant's existing right after the allocation of conserved water. This would result in a depletion of water in the Deschutes Basin of up to 71 ac-ft or a reduction in flow in the Deschutes River below Lake Billy Chinook of 0.10 cfs on a year around basis.
15. The applicant has not identified a use of the applicant's share of the conserved water and has requested that the water be reserved instream pursuant to ORS 537.470 and OAR 690-018-0080(2).
16. The only water rights calling on the Deschutes River that have been identified as potentially affected by the allocation of conserved water are the instream water rights. The allocation of conserved water would enhance flows in the middle Deschutes River during the irrigation season and would have no effect on flows during other portions of the year. The allocation of conserved water would enhance flows in the lower Deschutes River during the irrigation season and diminish flows during other periods of the year. On average, the allocation would result in a net improvement in flows in the lower Deschutes River.
17. Pursuant to OAR 690-18-050, in reviewing the application for allocation of conserved water the Department has determined the following:

- a) The proposed allocation of conserved water will result in reduced diversions for the uses allowed under the original right ranging from 0.31 cfs to 0.77 cfs as established in finding of fact 10.
- b) The proposed allocation will not harm other out-of-stream water rights and the impacts on the instream water rights during months outside the irrigation season are mitigated by the enhancement of flows during the irrigation season as described in finding of fact 16.
- c) The application is compatible with the local comprehensive land use plan as established in finding of fact 6.
- d) No harm will occur to other water rights and, therefore, no reduction in the quantity of conserved water to be allocated is required to mitigate.
- e) Consistent with finding of fact 10, the new rate and duty for the portion of the water right affected by the allocation of conserved water shall be:

Period	Reduced Right for Existing Use (POD 3)	Reduced Right for Existing Use (POD 15)
Apr. 1 to May 1 & Oct. 1 to Nov. 1	1.49 cfs	0.85 cfs
May 1 to May 15 & Sept. 15 to Oct. 1	2.00 cfs	1.14 cfs
May 15 to Sept. 15	3.72 cfs	2.12 cfs
Annual Duty	892 ac-ft	508 ac-ft

- f) The state's portion of the conserved water is needed to improve aquatic resources and their habitat between the site of POD 15 and Lake Billy Chinook.
- g) No federal or state non-reimbursable funds were used in the project and, depending on the disposition of the applicant's share of the conserved water, 70 percent of the water shall be allocated to the applicant and 30 percent shall be allocated to the state (if conserved water is used out-of-stream) or 75 percent of the water shall be allocated to the applicant and 25 percent shall be allocated to the state (to the extent the conserved water remains instream).
- h) The applicant's portion of the conserved water may be diverted at POD 15 and used to irrigate up to 43.85 acres within Sections 10, 11, 12, 13, 14, 15, 22, 23 or 24, Township 15 South, Range 12 East, W.M. upon notice to the Department pursuant to OAR 690-18-090. Additionally, the applicant may reserve the water instream for management as an instream water right from the site of POD 15 to Lake Billy Chinook.
- i) The conservation project is complete and the allocation of conserved water shall be finalized on issuance of the final order approving the allocation.

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WATER RESOURCES DEPT  
SALEM, OREGON

18. Certificate 74145 contains errors in the locations of the points of diversion that occurred at the time that the certificate was issued. The errors associated with POD #1, #4, and #11 were typographical. The error associated with POD #15 was as a result of using an incorrect final proof map. The errors are as follows:

Point of Diversion	Erroneous POD Location	Correct POD Location
1	SE ¼ NE ¼, Section 32, T. 17 S., R. 12 E., W.M.; 100 feet South and 50 feet East from the most Northerly corner of tax lot 4100.	SE ¼ NW ¼, Section 32, T. 17 S., R. 12 E., W.M.; 100 feet South and 50 feet East from the most Northerly corner of tax lot 4100.
4	NW ¼ SE ¼, Section 20, T. 17 S., R. 20 E., W.M.; 1980 feet North and 1980 feet West from the SE Corner of Section 20.	NW ¼ SE ¼, Section 20, T. 17 S., R. 12 E., W.M.; 1980 feet North and 1980 feet West from the SE Corner of Section 20.
11	SE ¼ SE ¼; Section 30, T. 16 S., R. 12 E., W.M.; 1248.59 feet North and 38 feet West from the SE corner of Section 30.	SE ¼ SE ¼; Section 30, T. 16 S., R. 12 E., W.M.; 1248.59 feet North and 138 feet West from the SE corner of Section 30.
15	Additional district diversion: NW ¼ SE ¼, Section 14, T. 15 S., R. 12 E., W.M.; 2170 feet North and 1350 feet West from the SE Corner of Section 14.	Additional district diversion: NE ¼ SE ¼, Section 14, T. 15 S., R. 12 E., W.M.; 2065.82 feet North and 1401.41 feet East from the S Quarter Corner of Section 14.

**Conclusion of Law**

The project described in the application for allocation of conserved water is consistent with the criteria in ORS 537.455 to 537.500; chapter 726, Oregon Laws 1997, as amended by chapter 394, Oregon Laws 1999; and OAR Chapter 690, Division 18. Water will be conserved that can be allocated without harming other water rights.

**Now, therefore, it is ORDERED:**

1. Certificate 74145 is cancelled.
2. The Department shall issue a new certificate confirming the reduction in the rate of diversion for the lands affected by the allocation of conserved water, incorporating any water right transfers completed pursuant to ORS Chapter 540, and correcting errors in the descriptions of the locations of PODs 1, 3, 11, and 15 that occurred on issuance of certificate 74145.
3. The applicant's portion of the conserved water shall be reserved instream pending notification to the Department of the applicant's intent to use the water. The quantity of water reserved instream shall be 0.23 cfs for the periods April 1 to May 1 and October 1 to

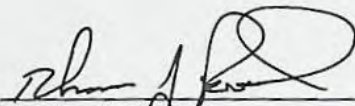
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ASST. DIR. OF WATER

November 1, 0.31 cfs for the periods May 1 to May 15 and September 15 to October 1, and 0.58 cfs for the period May 15 to September 15. The instream water shall have a priority date of September 1, 1899. The water reserved instream shall be managed to carry the water from the site of POD 15 located in the NW ¼ SE ¼, Section 14, T 15 S, R 12 E, to river mile 120 in the NE ¼ SW ¼, Section 29, T 12 S, R 12 E, W.M. (Lake Billy Chinook).

4. On notification to the Department of the applicant's intent to use the conserved water pursuant to OAR 690-18-090, the applicant may divert conserved water at POD 15 for the irrigation of up to 43.85 acres within Sections 10, 11, 12, 13, 14, 15, 22, 23 or 24, Township 15 South, Range 12 East, W.M. The right associated with the use shall allow the diversion of 0.22 cfs for the periods April 1 to May 1 and October 1 to November 1, 0.29 cfs for the periods May 1 to May 15 and September 15 to October 1, and 0.54 cfs for the period May 15 to September 15 and shall have a priority date of September 1, 1899. The annual duty of the right shall be 3 acre-feet per acre. The right shall be subject to all other terms and conditions of the original right, including those of the decree. If the applicant notifies the Department that the right has become appurtenant to specified lands and provides satisfactory proof, the Department shall issue a certificate for the use of water at the identified location, with a priority date of September 1, 1899.
5. The Department shall issue certificates for instream water rights to confirm a change in use and place of use of the water conserved as described below. The instream water rights shall have a priority date of September 1, 1899 and shall provide for the protection of flows in the Deschutes River from the site of POD 15 located in the NW ¼ SE ¼, Section 14, T 15 S, R 12 E, to river mile 120 in the NE ¼ SW ¼, Section 29, T 12 S, R 12 E, W.M. (Lake Billy Chinook). The quantities of water to be protected under the instream water rights shall be additive to the quantity to be protected under the instream water right established under certificate 76687 and the other instream water rights established under this order. The instream water rights shall be subject to all other terms and conditions of the original right, including those of the decree. The instream water rights shall be issued as follows:
  - a. On finalization of this order, a certificate for an instream water right shall be issued allowing the use of 0.08 cfs for the periods April 1 to May 1 and October 1 to November 1, 0.11 cfs for the periods May 1 to May 15 and September 15 to October 1, and 0.19 cfs for the period May 15 to September 15 for the support of aquatic life.
  - b. If, pursuant to OAR 690-18-090, the applicant notifies the Department that the applicant will use the conserved water as authorized under paragraph 4 of this order, the Department shall issue a certificate for an additional instream water right allowing the use of 0.01 cfs for the periods April 1 to May 1 and October 1 to November 1, 0.02 cfs for the periods May 1 to May 15 and September 15 to October 1, and 0.04 cfs for the period May 15 to September 15 for the support of aquatic life.
  - c. If, prior to any notification to the Department that the applicant will use the water as authorized in this order, the applicant notifies the Department that the applicant's portion of the conserved water should be permanently dedicated to instream use, the Department shall issue a certificate for an additional instream water right allowing the

use of 0.23 cfs for the periods April 1 to May 1 and October 1 to November 1, 0.31 cfs for the periods May 1 to May 15 and September 15 to October 1, and 0.58 cfs for the period May 15 to September 15 for the support of aquatic life.

Dated at Salem, Oregon this 30<sup>th</sup> day of September, 2004.

  
For Phillip C. Ward  
Acting Director

Mailing date:                       
                    OCT 0 6 2004

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**MAY 18 2006**  
**WATER RESOURCES DEPT**  
**SALEM, OREGON**

**W&H PACIFIC**920 S.W. Emkay Dr., Suite C-100  
Bend, Oregon 97702

July 2, 1999

*Revised February 9, 2000*

Mr. Dwight French  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310

**RE: Eagle Crest III  
OWRD File No. G-14857  
Deschutes Basin Groundwater Withdrawal  
Mitigation Plan  
WHP File No. 526-0107**

Dear Dwight:

Thank you for your continuing assistance on the pending groundwater appropriation application for Eagle Crest, Inc. in the Deschutes River Basin. We received an initial review which described the potential for a groundwater connection to Deschutes River surface water flows. I have compiled the following mitigation plan, intended to offset any impacts to surface water from our proposed groundwater withdrawal. Your review and approval are respectfully requested.

**Eagle Crest III Introduction**

Eagle Crest III is a proposed expansion of the existing Eagle Crest Resort, located approximately four miles west of Redmond, Oregon. Eagle Crest III will encompass approximately 480 acres, approximately 900 resort dwelling units, and appropriate recreational amenities. No golf course, nor significant irrigation requirements are expected. Eagle Crest III will be operated and managed as an integral part of the existing resort.

The domestic water supply requirements for Eagle Crest III will be provided by a new groundwater well and a connection to the existing domestic water distribution system. The connection to the existing system will provide a redundant backup supply for the entire resort, sharing reservoirs and distribution piping, and improving the overall efficiency of the water supply system.

**Water Right Summary**

Eagle Crest, Inc. has filed an application for a quasimunicipal groundwater appropriation to serve the Eagle Crest expansion. The pending water right application seeks a maximum diversion of 3.34 cfs.

Water consumption at a destination resort is very different from the domestic consumption at a municipality. The occupancy at a destination resort will typically be high during the summer season, relatively high during the winter weekends or holidays, and very low the rest of the time. Water use varies significantly between weekends and weekdays, between the seasons of the year, and even during the hours of the day.

February 9, 2000

Page 2

Groundwater wells at Eagle Crest will pump directly into the water distribution system whenever the project reservoirs are drawn down. The well pump will operate for a very short duration during the slack season of the resort, and will operate many more hours per day during the busy season. **The maximum diversion requested in the water right application will only be required a few days of the year and only after full buildout of the resort.**

### Consumptive Use of Water at Eagle Crest

We can estimate the water consumption for the proposed expansion of Eagle Crest by utilizing historical consumption from the existing resort development. We utilized water meter records from the existing resort wells to determine the average total water consumption for each dwelling unit, on an annual basis. We used this actual average water consumption and applied it to the proposed 900 units at Eagle Crest III, to determine the total volume of water required on an annual basis, at Eagle Crest III.

Sewage at Eagle Crest is collected in a community sewer system, treated, and discharged in a subsurface drainfield. The sewage drainfield represents a recharge to the groundwater system. In the Deschutes Basin Groundwater Study, the recharge from sewage drainfields was considered to offset the consumptive use of groundwater. We have again utilized the existing resort units to estimate the average annual volume of sewage.

Our historical records at Eagle Crest demonstrate that a typical residential unit at Eagle Crest will require 0.28 acre feet of water from the domestic water supply system each year. This consumption is offset by a sewage contribution of 0.15 cubic feet. The net consumptive use is 0.13 acre feet per year.

At Eagle Crest III, the 900 proposed residential units are expected to result in a total consumptive use, at full buildout, of 115 acre feet per year. This net consumptive use of the groundwater withdrawal should be mitigated, proportionally to buildout of the resort expansion, to prevent impacts on surface water flows in the Deschutes basin.

We recognize that water consumption will vary from year to year and from neighborhood to neighborhood. Our calculations provide an estimate only. Actual consumption at Eagle Crest III can be measured accurately and adjustments made as the resort develops.

### Groundwater Mitigation Concept

The Oregon Water Resources Department has determined from an extended groundwater study in the Deschutes basin that significant groundwater is available. Groundwater in the Deschutes basin typically discharges to the Deschutes River in the general vicinity of Lake Billy Chinook. Because of this connection between the groundwater and the surface water, and because all surface water rights are not met in the lower Deschutes River, groundwater withdrawals require some mitigation.

The Oregon Water Resources Department established a Deschutes Basin Task Force to evaluate water supplies, establish a reliable source of water for users in the basin, and to develop a mitigation plan to accommodate groundwater withdrawals in the Deschutes Basin. A task force has been formed and is currently operating effectively. While the Deschutes Basin Task Force develops its findings and recommendations on a long-term water supply for the basin, water right permit applications have been placed on administrative hold. Once the work of the Task Force is completed, then regional-wide mitigation should be made available to users throughout the Deschutes Basin, and pending or new appropriation applications can be processed. The on-going work of the Task Force has provided significant guidance to Eagle Crest in establishing an appropriate mitigation plan.

February 9, 2000

Page 3

Eagle Crest proposes mitigation for the total consumptive use of groundwater at the proposed resort expansion project. Eagle Crest proposes to mitigate the proposed groundwater withdrawal with the dedication of irrigation rights to an instream use. This proposal assures an immediate and effective mitigation to cover the immediate water needs of Eagle Crest.

The middle reach of the Deschutes River immediately below Bend, may very well have the greatest need for surface water mitigation. Eagle Crest proposes to dedicate surface water to an instream use, below the City of Bend, as mitigation for a groundwater withdrawal. This proposed mitigation should have the greatest beneficial effect on the Deschutes River because it adds water in the lowest flow section of the river and adds water that can subsequently be stored at Lake Billy Chinook.

Eagle Crest will not consume any appreciable volume of water over the next few years, because of the land use approval schedule and initial construction. Water consumption of Eagle Crest will grow slowly as residences are built and homes occupied. Based upon our experiences at the existing resort, we would expect 10 to 20 years to approach full buildout of the resort. For the purposes of this mitigation, we have assumed residential building construction would start in the year 2000 and we have assumed the expansion project would approach full buildout 10 years later. We propose that the dedication of surface water to an instream use be implemented within two years after OWRD issuance of the groundwater permit, to assure gallon for gallon mitigation for the near-term development of the resort. Likely, the mitigation will exceed the actual consumption based upon this schedule. **The Eagle Crest groundwater appropriation will be limited to the amount mitigated.** As the Deschutes Basin Task Force completes their work, Eagle Crest will have the right to choose the regional Task Force mitigation or to dedicate in-stream rights.

#### Water Right Transfer To An Instream Lease

Eagle Crest, Inc. owns a Swalley Irrigation District water right under Certificates No. 29054 and 29056. The water right is currently utilized to irrigate a golf course and grounds on a portion of the existing resort. Eagle Crest proposes to transfer the appropriate acreage of the existing Swalley Irrigation water right to offset the consumptive use of water on the expansion project, on a gallon for gallon basis. As noted, Eagle Crest may also elect to choose the regional Task Force mitigation, but appropriate mitigation must be in place before groundwater withdrawals may occur.

The following diversion rates and schedules are specified in the referenced Swalley Irrigation District permit:

- |   |               |
|---|---------------|
| ➤ April 1 to April 30 and October 1 to November 1:  | .012 CFS/ACRE |
| ➤ May 1 to May 14 and September 15 to September 30: | .016 CFS/ACRE |
| ➤ May 15 to September 14:                           | .030 CFS/ACRE |

These diversion rates include a 43% canal transmission loss. Excluding the canal transmission loss reduces the proposed mitigation to 57% of the rates shown. The OWRD special order for the Swalley Irrigation District rights further describes a maximum diversion of 9.56 acre-feet for each acre irrigated, again including the canal conveyance loss. The total diversion is equivalent to 5.46 acre-feet for each acre irrigated, excluding the canal conveyance loss.

Eagle Crest, Inc. proposes to dedicate 21 acres of the Swalley Irrigation District right to an instream use to mitigate approximately the estimated total consumptive use of water at Eagle Crest III. Eagle Crest is proposing to dry 21 acres of grounds that are currently irrigated, and transfer those water rights to an instream use for mitigation.

February 9, 2000  
Page 4

The regional mitigation strategy for the Deschutes Basin, currently being developed by the Deschutes Basin Task Force, may provide an alternative for Eagle Crest to mitigate consumptive use. Eagle Crest reserves the right to either participate in the regional mitigation or deliver the 21 acres of the Swalley Irrigation District right, to provide the needed mitigation. Regardless of the selected mitigation, the actual consumptive use of water at Eagle Crest III will be metered and groundwater withdrawals will be limited to the amount mitigated.

### Summary

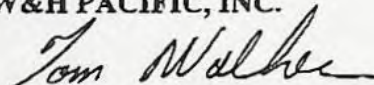
In summary, Eagle Crest is proposing a 480 acre destination resort development. A new groundwater well is required to serve that proposed development. Because groundwater and surface water are connected in the Deschutes basin and surface water rights are not met, then mitigation is required to offset potential surface water impacts. Eagle Crest has calculated the estimated total consumptive use of groundwater at the proposed development project and is prepared to mitigate the withdrawal by dedicating surface water irrigation rights to an instream use and/or participating in the regional mitigation solution being developed by the Deschutes Basin Task Force.

The Swalley Irrigation water rights will remain in the Deschutes River, rather than being withdrawn at the City of Bend. This mitigation will provide a significant benefit to the middle reach of the Deschutes River, which has historically experienced low summer time flows. Mitigation in the middle reach of the Deschutes River has been identified by the Deschutes Basin Taskforce as a very desirable outcome of the mitigation program.

Your review and approval of this mitigation plan are respectfully requested. Upon approval, we would expect that the pending Eagle Crest permit processing would proceed. Subject to the outcome of that standard water right application process, a water right permit will be issued.

Please consider my comments and recommendations and never hesitate to contact me if you have questions or need additional information.

Very Truly Yours,  
W&H PACIFIC, INC.

  
Thomas A. Walker, P.E., C.W.R.E.  
Vice President

Cc: Alan VanVliet

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Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number G-14857

**Proposed Final Order**

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

*Application History*

On November 2, 1998, WILLIAM D. LYCHE, for EAGLE CREST INC., submitted an application to the Department for the following water use permit:

- Amount of Water: 1500 GALLONS PER MINUTE(3.34 CFS)
- Use of Water: QUASI-MUNICIPAL USE
- Source of Water: A WELL IN DESCHUTES RIVER BASIN
- Area of Proposed Use: DESCHUTES County within SECTION 15, SECTION 16, SECTION 22, SECTION 23, TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

On 5/21/99, the Department mailed the applicant notice of its Initial Review, determining that "...*QUASI-MUNICIPAL cannot be allowed. At the next step of processing the Department will propose denial of this application unless the applicant proposes a mitigation plan, approved by the Department, that satisfactorily addresses the impact of the proposed use of ground water on surface flows. The approved mitigation plan could be incorporated as part of the permit, if one is issued, but implementation of the plan would be required prior to water use. At this time, you must decide whether to proceed or to withdraw your application as described below [or] place your application on "administrative-hold" to allow for participation in the Deschutes Basin Water Management Planning Process which is developing a water management plan to serve as a mechanism for mitigating the use of hydraulically connected ground water.*" The applicant did not notify the Department to stop processing the application within 14 days of that date.

On 6/24/99, 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.

Comments were received from William D. Lyche, requesting that the application be withheld from processing until, as late as, September 1, 2000.

On September 13, 1999, Thomas A. Walker, certified water rights examiner for the applicant, requested that the Department review a proposed mitigation plan and proceed with the application.

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

- comments by or consultation with another state agency
- 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*

The Deschutes Basin Program allows quasi-municipal use from groundwater.

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

The Department finds that the amount of water requested, 3.34 CFS, is an acceptable rate.

The Department determined, based upon OAR 690-09, that the proposed groundwater use will have the potential for substantial interference with the Deschutes River.

The proposed well, in Deschutes River Basin, is above a State Scenic Waterway.

The Groundwater Section finds, per OAR 390.835(9), there is not a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife.

An assessment of groundwater availability has been completed by the Department's Groundwater/Hydrology Section. This assessment determined that groundwater is available for further appropriation. However, because the well has the potential for substantial interference with surface water, an assessment of surface water availability has also been completed. By definition water is available when the requested source is not over-appropriated under OAR 690-410-010 and 690-410-070, during any period of the proposed use (OAR 690-300-010 (57)). Under OAR 690-410-070, groundwater may only be allocated to new uses when the allocations will not contribute to over-appropriation. Over-appropriation of groundwater means that the appropriation of groundwater resources by all water rights exceeds the average annual recharge to a groundwater source over the period of record, or results in the further depletion of already over-appropriated surface waters. The assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. Copies of both assessments are

available in the file. The assessment determined that water is **not** available for further appropriation (at an 80 percent exceedance probability) May 1 through March 31 due to existing consumptive uses and instream water rights. Groundwater and surface water are managed conjunctively by the Water Resources Department in order to protect the resource, existing rights, and the public interest (OAR 690-410-010). Because the proposed well is in hydraulic interference with surface water, with the potential for substantial interference, and surface water is over-appropriated May 1 through March 31, water is **not** available for the proposed use.

The proposed well will have the potential for substantial interference with surface water sources, therefore, OAR 690 division 33 rules apply to this application. In accordance with OAR 690-33-140(b), OAR 690-33-140(e), and OAR 690-33-330, regarding sources tributary to the Columbia River above Bonneville Dam and sensitive fish species, the use may be allowed. Specifically, the use may be allowed because, as described below, the effects of impacts to surface water will be mitigated through a lease of an existing right to instream use. The mitigation will provide net benefits for native resident and native anadromous fish, and as proposed, the project has measurable public benefits. The lease will mitigate gallon for gallon the total amount of water consumed by the proposed ground water use. The Deschutes River will benefit from the lease by water being provided at a crucial stretch of the river (directly below the city of Bend) and from water being provided during the critical summer months.

OAR 690-310-140 states the following regarding the public interest review:

Public Interest Review; Groundwater: (1) Unless the applicant requests withdrawal of an application following the initial review described in OAR 690-310-080, before issuing a proposed final order, the Department shall determine whether the presumption under OAR 690-310-130 is established for the proposed groundwater use, as described in OAR 690-310-130.

(2) If the Department determines that the presumption is not established, the Department shall determine whether the proposed use will impair or adversely affect the public welfare, safety and health under ORS 537.525 and may either:

(a) Propose denial of the application upon a finding that the use will impair or adversely affect the public welfare, safety and health; or

(b) Make specific findings to demonstrate that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety, and health and propose approval of the application with appropriate modifications or conditions.

The Department finds that, per OAR 690-310-130(1)(b), in this application, all criteria for establishing the presumption have not been satisfied. The presumption is not established because water is not available. However, with the following specific findings, the Department finds that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety, and health. (OAR 690-310-130(2)(b))

*Specific Findings of Fact*

Historical records at Eagle Crest, Inc. demonstrate that at full build out the proposed 900 residential units and appropriate recreational amenities will, minus the amount offset by sewage contribution, consume approximately 115 acre-feet of water each year. Eagle Crest, Inc. proposes to mitigate, gallon for gallon for the consumed acre-feet by a lease of 21.0 acres of Swalley Irrigation District right, authorized under certificate 74145, to instream use for 2 years. The lease will mitigate for the total 115 acre-feet of water use, even though the maximum usage will not occur until total build out, approximately 10 to 20 years later. This will provide an immediate benefit to the flows in the Deschutes River. In addition, the River will benefit from the water being provided at a crucial stretch of the Deschutes River (directly below the city of Bend) and from water being provided during the critical summer months.

To ensure the lease of the water right authorized under certificate 74145, to instream use for mitigation purposes will be sufficient to prevent the public welfare, safety, and health from being impaired or adversely affected, the permit will not be issued unless the applicant obtains a valid lease to instream use; in addition, the permit will be conditioned, as described below, to:

- 1) expire unless 21.0 acres, or more as described below, of the water right authorized under certificate 74145, or an equivalent water right as determined by the Department, is permanently transferred to instream use prior to expiration of the lease. An equivalent water right must, at a minimum, be from a water right with a diversion point at or near the diversion authorized by the lease of certificate 74145.
- 2) limit the total annual diversion to a consumptive duty of 115 acre-feet of water each year. However, if the diversion amount from the well(s) minus the return flows from sewage treatment indicate 115 acre-feet of mitigation is not sufficient, the permit holder may increase the mitigation component of the permit by transferring additional acres and acre-feet to instream. Exercise of this option requires that the additional transfer to instream be from an irrigation water right with a diversion point at or near the diversion authorized by the lease of a portion of certificate 74145.
- 3) require sufficient reporting to ensure the mitigation plan is sufficient.

The following conditioning will be included in the permit:

The use shall be limited to a maximum diversion of 252 acre-feet each year, and shall result in consumption of no more than 115 acre-feet each year, once sewage contribution is subtracted from the amount diverted. If the reporting, as required below, demonstrates the mitigation plan is not sufficient to mitigate for the amount of water actually consumed, the use will be further restricted to limit the total consumed water to 115 acre-feet, or the department may approve an additional and equivalent water right to be leased to instream use, to maintain an acre-foot for acre-foot balance between the amount of water consumed to the amount of water provided to instream use.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install meters, or other suitable measuring devices as approved by the Director, *at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured.* The permittee shall maintain the meters or measuring devices in good working order, shall keep a complete record of the amount of water used and discharged 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 meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the watermaster shall request access upon reasonable notice.

This permit will expire in 2 years from permit issuance unless the 2 year lease of the water right authorized under certificate 74145 to instream purposes is replaced by a permanent transfer of water right certificate 74145, or an equivalent water right as determined by the Department, to instream use.

*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.

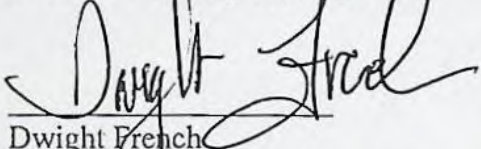
The presumption described in ORS 537.621(2) has not been established because without mitigation, water is not available. However, with the proposed mitigation plan, the Department finds that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety, and health, and propose approval of the application as conditioned on the attached draft permit.

The Department therefore concludes 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.

Recommendation

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

DATED February 15, 2000



Dwight French  
Water Rights Section Manager

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

*Protest Rights and Standing*

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest 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 \$200 protest fee 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 537.621(6), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is

STATE OF OREGON

SUPERSEDED

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE CREST INC.  
WILLIAM D. LYCHE  
PO BOX 1215  
REDMOND, OREGON 97756

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

APPLICATION FILE NUMBER: G-14857

SOURCE OF WATER: A WELL IN DESCHUTES RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USE

MAXIMUM RATE: 3.34 CUBIC FOOT PER SECOND, further limited to a maximum diversion of 252 acre-feet each year and shall result in consumption of no more than 115 acre-feet each year, once sewage contribution is subtracted from the amount diverted, unless the mitigation plan is modified and approved by the department as described below.

If the reporting, as required below, demonstrates the mitigation plan is not sufficient to mitigate for the amount of water actually consumed, the use will be further restricted to limit the total consumed water to 115 acre-feet, or the department may approve an additional and equivalent water right to be leased to instream use, to maintain an acre-foot for acre-foot balance between the amount of water consumed to the amount of water provided to instream use. An equivalent water right must, at a minimum, be from a water right with a diversion point at or near the diversion authorized by the lease of certificate 74145.

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 2, 1998

POINT OF DIVERSION LOCATION: NE 1/4 NE 1/4, SECTION 16, T15S, R12E, W.M.; 150 FEET SOUTH AND 150 FEET WEST FROM THE NE CORNER SECTION 16  
THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4  
NW 1/4  
SW 1/4

SECTION 16

TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

Application G-14857 Water Resources Department

PERMIT G-13819

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install meters, or other suitable measuring devices as approved by the Director, *at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured*. The permittee shall maintain the meters or measuring devices in good working order, shall keep a complete record of the amount of water used and discharged 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 meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the watermaster shall request access upon reasonable notice.

This permit will expire in 2 years from permit issuance unless the 2 year lease of the water right authorized under certificate 74145 to instream purposes is replaced by a permanent transfer of water right certificate 74145, or an equivalent water right as determined by the Department, to instream use.

Within 1 year of permit issuance, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The Director may approve an extension of this timeline to complete the required Water Management Conservation Plan.

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(s) 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.

### STANDARD CONDITIONS

The wells 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.

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

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.

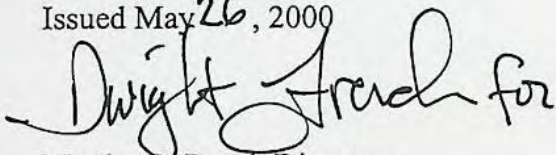
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

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

Actual construction of the well shall begin by May<sup>26</sup>, 2001. Complete application of the water to the use shall be made on or before October 1, 2004. 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 May<sup>26</sup>, 2000



Martha O. Pagel, Director  
Water Resources Department

NOTE: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

Application G-14857  
Basin 5

Water Resources Department  
Volume 1 DESCHUTES R MISC  
MGMT. CODE 7BG 7BR 7JG 7JR

PERMIT G-13819  
District 11

Oregon Water Resources Department  
Water Rights Division

FAKED  
2/11/00

RWK

TO

T. WALKER

(YES ON A FRIDAY)

Water Rights Application  
Number G-14857

Proposed Final Order

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

*Application History*

On November 2, 1998, WILLIAM D. LYCHE, for EAGLE CREST INC., submitted an application to the Department for the following water use permit:

- Amount of Water: 1500 GALLONS PER MINUTE (3.34 CFS)
- Use of Water: QUASI-MUNICIPAL USE
- Source of Water: A WELL IN DESCHUTES RIVER BASIN
- Area of Proposed Use: DESCHUTES County within SECTION 15, SECTION 16, SECTION 22, SECTION 23, TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

On 5/21/99, the Department mailed the applicant notice of its Initial Review, determining that "...QUASI-MUNICIPAL cannot be allowed. At the next step of processing the Department will propose denial of this application unless the applicant proposes a mitigation plan, approved by the Department, that satisfactorily addresses the impact of the proposed use of ground water on surface flows. The approved mitigation plan could be incorporated as part of the permit, if one is issued, but implementation of the plan would be required prior to water use. At this time, you must decide whether to proceed or to withdraw your application as described below [or] place your application on "administrative-hold" to allow for participation in the Deschutes Basin Water Management Planning Process which is developing a water management plan to serve as a mechanism for mitigating the use of hydraulically connected ground water." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On 6/24/99, 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.

Comments were received from William D. Lyche requesting that the application be withheld from processing until, as late as, September 1, 2000.

On September 13, 1999, Thomas A. Walker, certified water rights examiner for the applicant, requested that the Department review a proposed mitigation plan and proceed with the application.

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

- comments by or consultation with another state agency
- 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*

The Deschutes Basin Program allows quasi-municipal use from groundwater.

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

The Department finds that the amount of water requested, 3.34 CFS, is an acceptable rate.

The Department determined, based upon OAR 690-09, that the proposed groundwater use will have the potential for substantial interference with the Deschutes River.

The proposed well, in Deschutes River Basin, is above a State Scenic Waterway.

The Groundwater Section finds, per OAR 390.835(9), there is not a preponderance of evidence that the proposed use of groundwater will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife.

An assessment of groundwater availability has been completed by the Department's Groundwater/Hydrology Section. This assessment determined that groundwater is available for further appropriation. However, because the well has the potential for substantial interference with surface water an assessment of surface water availability has also been completed. By definition water is available when the requested source is not over-appropriated under OAR 690-410-010 and 690-410-070 during any period of the proposed use (OAR 690-300-010 (57)). Under OAR 690-410-070, groundwater may only be allocated to new uses when the allocations will not contribute to over-appropriation. Over-appropriation of groundwater means that the appropriation of groundwater resources by all water rights exceeds the average annual recharge to a groundwater source over the period of record, or results in the further depletion of already over-appropriated surface waters. The assessment compared a calculation of natural streamflow minus the consumption portion of all relevant rights of record. Copies of both assessments are available in the file. The assessment determined that water is not available for further appropriation (at an 80 percent exceedance probability) May 1 through March 31 due to existing consumptive uses and instream water rights. Groundwater and surface water are managed conjunctively by the Water Resources Department in order to protect the resource, existing rights, and the public interest (OAR 690-410-010). Because the proposed well is in hydraulic interference with surface water, with the potential for substantial interference, and surface water is over-appropriated May 1 through March 31, water is not available for the proposed use.

The proposed well will have the potential for substantial interference with surface water sources, therefore, OAR 690 division 33 rules apply to this application. In accordance with OAR 690-33-140(b), OAR 690-33-140(e), and OAR 690-33-330 regarding sources tributary to the Columbia River above Bonneville Dam and sensitive fish species, the use may be allowed. Specifically, the use may be allowed because, as described below, the effects of impacts to surface water will be mitigated through a lease of 21.0 acres allowed under transfer 6989, special order volume 50, page 312, to instream use. The mitigation will provide net benefits for native resident and native anadromous fish, and as proposed, the project has measurable public benefits. The lease of Swalley Irrigation District right, authorized under transfer 6989, special order volume 50,

page 312, to instream use for 2 years, will mitigate gallon for gallon the total amount of water consumed by the proposed ground water use. The Deschutes River will benefit from the lease by water being provided at a crucial stretch of the river (directly below the city of Bend) and from water being provided during the critical summer months.

OAR 690-310-140 states the following regarding the public interest review:

Public Interest Review; Groundwater: (1) Unless the applicant requests withdrawal of an application following the initial review described in OAR 690-310-080, before issuing a proposed final order, the Department shall determine whether the presumption under OAR 690-310-130 is established for the proposed groundwater use, as described in OAR 690-310-130.

(2) If the Department determines that the presumption is not established, the Department shall determine whether the proposed use will impair or adversely affect the public welfare, safety and health under ORS 537.525 and may either:

(a) Propose denial of the application upon a finding that the use will impair or adversely affect the public welfare, safety and health; or

(b) Make specific findings to demonstrate that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety, and health and propose approval of the application with appropriate modifications or conditions.

The Department finds that, per OAR 690-310-130(1)(b), in this application, all criteria for establishing the presumption have not been satisfied. The presumption is not established because water is not available. However, with the following specific findings, the Department finds that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety, and health. (OAR 690-310-130(2)(b))

#### *Specific Findings of Fact*

Historical records at Eagle Crest, Inc. demonstrate that at full build out the proposed 900 residential units and appropriate recreational amenities will, minus the amount offset by sewage contribution, consume approximately 115 acre-feet of water each year. Eagle Crest, Inc.

proposes to mitigate, gallon for gallon for the consumed 115 acre-feet by a lease of 21.0 acres of Swalley Irrigation District right, authorized under transfer 6989, special order volume 50, page 312, to instream use for 2 years. The lease will mitigate for the total 115 acre-feet of water use, even though the maximum usage will not occur until total build out, approximately 10 to 20 years later. This will provide an immediate benefit to the flows in the Deschutes River. In addition, the River will benefit from the water being provided at a crucial stretch of the Deschutes River (directly below the city of Bend) and from water being provided during the critical summer months.

To ensure the lease of the water right authorized under transfer 6989, special order volume 50, page 312, to instream use for mitigation purposes will be sufficient to prevent the public welfare, safety, and health from being impaired or adversely affected, the permit will not be issued unless the applicant obtains a valid lease to instream use; in addition, the permit will be conditioned, as described below, to: 1) expire unless water right authorized under transfer 6989, special order volume 50, page 312 is permanently transferred to instream use prior to expiration of lease # or other identifier; 2) limit the total diversion to a consumption of 115 acre-feet of water each year; 3) require sufficient reporting to ensure the mitigation plan is sufficient.

The following conditioning will be included in the permit:

The use shall be limited to a maximum diversion of 252 acre-feet each year, and shall result in consumption of no more than 115 acre-feet each year, once sewage contribution is subtracted from the amount diverted. If the reporting, as required below, demonstrates the mitigation plan is not sufficient to mitigate for the amount of water actually consumed, the use will be further restricted to limit the total consumed water to 115 acre-feet.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install meters, or other suitable measuring devices as approved by the Director, at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured. The permittee shall maintain the meters or measuring devices in good working order, shall keep a complete record of the amount of water used and discharged 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 meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the watermaster shall request access upon reasonable notice.

This permit will expire in 2 years from permit issuance unless the 2 year lease of the water right authorized under transfer 6989, special order volume 50, page 312 to instream purposes is replaced by a permanent transfer of the water right to instream use.

*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.

No preference for this use is granted under the provisions of ORS 536.310(12).

Water is not 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 not been established.

In this application, all criteria for establishing the presumption have not been satisfied, as noted above. The presumption has been overcome by a preponderance of evidence that water is not available. However, with the proposed mitigation plan, the Department has found that even though the presumption is not established, the proposed use will not impair or adversely affect the public welfare, safety, and health, and propose approval of the application as conditioned on the attached draft permit.

The Department therefore concludes 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.

#### Recommendation

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

DATED February 15, 2000

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

\_\_\_\_\_  
Dwight French  
Water Rights Section Manager

#### *Protest Rights and Standing*

Under the provisions of 537.621(7), you have the right to protest this proposed final order. Your protest 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 \$200 protest fee 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 537.621(6), persons other than the applicant who support a proposed final order may request standing for purposes of participating in any contested case proceeding on the proposed final order or for judicial review of a final order. A request for standing shall be in writing, include a statement that the requester supports the proposed final order, and a statement of how the requester would be harmed if the proposed final order is modified. The fee required at the time of submitting this request is \$50.00. If a hearing is scheduled, an additional fee of \$150.00 must be submitted along with a request for intervention. Forms to request standing are available from the Department.

Your protest or request for standing must be received in the Water Resources Department no later than **March 31, 2000**.

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 if

- 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 Russell W. Klassen. 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 toll free within Oregon at 1-800-624-3199 extension 266. Outside of Oregon you can dial 1-503-378-8455.*

*If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact Adam Sussman. His extension number is 262.*

*If you have other questions about the Department or any of its programs please contact our Water Rights Information Group at extension 499*

*Address all other correspondence to:*

Water Rights Section, Oregon Water Resources Department, 158 12th ST NE SALEM, OR 97310

Fax: (503)378-2496 .

RWK- WEEK 238

DRAFT

This is not a permit!!!  
STATE OF OREGON

DRAFT

COUNTY OF DESCHUTES

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

EAGLE CREST INC.  
WILLIAM D. LYCHE  
PO BOX 1215  
REDMOND, OREGON 97756

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

APPLICATION FILE NUMBER: G-14857

SOURCE OF WATER: A WELL IN DESCHUTES RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USE

MAXIMUM RATE: 3.34 CUBIC FOOT PER SECOND, FURTHER LIMITED TO A MAXIMUM DIVERSION OF 252 ACRE-FEET EACH YEAR AND SHALL RESULT IN CONSUMPTION OF NO MORE THAN 115 ACRE-FEET EACH YEAR, ONCE SEWAGE CONTRIBUTION IS SUBTRACTED FROM THE AMOUNT DIVERTED. IF THE REPORTING, AS REQUIRED BELOW, DEMONSTRATES THE MITIGATION PLAN IS NOT SUFFICIENT TO MITIGATE FOR THE AMOUNT OF WATER ACTUALLY CONSUMED, THE USE WILL BE FURTHER RESTRICTED TO LIMIT THE TOTAL CONSUMED WATER TO 115 ACRE-FEET.

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 2, 1998

POINT OF DIVERSION LOCATION: NE 1/4 NE 1/4, SECTION 16, T15S, R12E, W.M.; 150 FEET SOUTH AND 150 FEET WEST FROM THE NE CORNER SECTION 16

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4

NW 1/4

SW 1/4

SECTION 15

TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

## Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install meters, or other suitable measuring devices as approved by the Director, at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured. The permittee shall maintain the meters or measuring devices in good working order, shall keep a complete record of the amount of water used and discharged 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 meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the watermaster shall request access upon reasonable notice.

This permit will expire in 2 years from permit issuance unless the 2 year lease of the water right authorized under transfer 6989, special order volume 50, page 312 to instream purposes is replaced by a permanent transfer of the water right to instream use.

Within 1 year of permit issuance, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The Director may approve an extension of this timeline to complete the required Water Management Conservation Plan.

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(s) 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.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in

quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.

#### STANDARD CONDITIONS

The wells 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.

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

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.

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

Actual construction of the well shall begin within one year from issuance of the final order approving the use. Complete application of the water to the use shall be made on or before October 1, 2004. 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 \_\_\_\_\_, 199\_

DRAFT - THIS IS NOT A PERMIT

---

Martha O. Pagel, Director  
Water Resources Department

DRAFT

# Mailing List for PFO Copies

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Application #G-14857

PFO Date February 15, 2000

## Original mailed to:

Applicant: WILLIAM D. LYCHE, EAGLE CREST INC., PO BOX 1215, REDMOND, OREGON 97756

## Copies sent to:

1. WRD - File # G-14857
2. WRD - Water Availability: Ken Stahr

## PFO, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # District 11
- DIV 33above
4. ODFW (Ted Wise)
  5. Col Riv Intertribal Fish Comm
  6. USFW
  7. NW Powr Plan Council
  8. NMFS (Marc Liverman)
- DIV 33stwd
9. DEQ (Portland): Tom Rosetta
  10. DOA (Salem): Steve Applegate

Copies Mailed
By: _____ (SUPPORT STAFF)
on: _____ (DATE)

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

11. Tom Walker (CWRE)
12. Ramer Holton jr., 1201 Third Avenue, 40<sup>th</sup> Floor, Seattle, WA 98101-3099

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

1. Ronald Wortman, PO Box 550, Prineville, OR 97754

CASEWORKER : RWK- WEEK 238

**Laura Snedaker**

---

**From:** Laura Snedaker [Laura.K.SNEDAKER@wrd.state.or.us]  
**Sent:** Wednesday, December 06, 2006 1:29 PM  
**To:** "Tom Walker" <twalker@whpacific.com>  
**Cc:** 'Dwight French'; 'Debbie Colbert'  
**Subject:** Ground Water Permit G-13856 for Cline Butte Utility

Tom:

I wanted to let you know that we received your letter dated November 16, 2006, addressing ground water permit G-13856. I'm hoping that we'll be able to get a response back to you before Christmas.

If I don't talk with you before then, have a happy holiday.

Laura

Laura Snedaker  
Senior Water Resources Coordinator  
Oregon Water Resources Department  
725 Summer Street NE, Suite A  
Salem, OR 97301-1271  
Phone: (503) 986-0884  
Web: [www.oregon.gov/OWRD](http://www.oregon.gov/OWRD)

# 2001

Oregon Water Resources Department  
October 2001 through September 2002  
Annual Water Use - Monthly Quantities Form

USER-ID 29088

# 2002



Facility					
POD-ID					
October - 2001					
November - 2001					
December - 2001					
January - 2002					
February - 2002					
March - 2002					
April - 2002					
May - 2002					
June - 2002					
July - 2002					
August - 2002					
September - 2002					
TOTAL *					

RECEIVED  
OCT 30 2002  
WATER RESOURCES DEPT  
SALEM OREGON

NOT IN USE

\* Describe the units of measure as G (gallons), KG (thousand gallons), MG (million gallons), CF (cubic feet), MCF (million cubic feet), or AF (acre-feet)

Describe method of measuring the water used: \_\_\_\_\_ . If use is irrigation, total number acres irrigated \_\_\_\_\_

I certify this information is true and accurate to the best of my knowledge.

*RK*      OPERATIONS MANAGER      CLINE BUTTE UTILITY CO.      OCT 24, 2002  
 Signature      Title      Reporting Entity      Date  
Ric Kuss  
 Name - Please Print

Please complete and mail to: Water Resources Department; Water Use Reporting Program;  
158 12<sup>th</sup> Street NE; Salem, OR 97310-0210



### OREGON WATER RESOURCES DEPARTMENT SUMMARY OF WATER RIGHTS FOR WATER USE REPORT



Dear Water User: It is a new water year! All water use reports for October 2001 to September 2002 are requested to be submitted by January 1, 2003. This information is important for water management in Oregon. Please complete the form on the reverse side for the water rights listed below. If you have questions, or need more time please, contact me at 503-378-8455 ext. 333. Thank you for your attention to this matter. Mary Grainey

USER-ID 29088

CLINE BUTTE UTILITY CO.  
1140 NUTCRACKER  
REDMOND OR 97756

POD-ID	FACILITY	CERT	PERMIT	APPL.	PRIORITY	USE	L/S	TWP	RANGE	SEC	Q/Q	RATE	SOURCE	TRIBUTARY TO						
60185		0	G	13856	G	14857	11/2/1998	QM	L	15	S	12	E	16	NENE	3.34	C	P	A WELL #9	DESCHUTES R

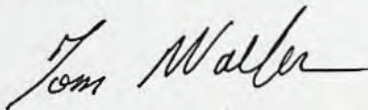
USER-ID 29088

ECII Well #8	Eagle Ridge Dev. Corp.	89252	600'	4/22/98	14"	STACO	G-11762 G-12905	315'	124 days
EC III Well #9 DESC 54485 KCW	Eagle Crest, Inc.	111252	736	11/15/01	14"	STACO	P G-13819 - CA A G-14857 P G-13856 - NC	508'	6.5 hours

Please consider my comments and never hesitate to contact me if you have questions or need additional information. To the best of my knowledge, the information in this letter is accurate, and at the time of measurement representative of the static water level in the aquifer. The intent of this submittal is to meet all reporting obligations for Eagle Crest water rights. The water rights are critical to the operations of the Eagle Crest Destination Resort and cannot be jeopardized in any way. Please contact us immediately if you have any questions or concerns with Eagle Crest water rights. Thank you for your review and assistance.

Sincerely,

W&H Pacific, Inc.



Thomas A. Walker, P.E., C.W.R.E.  
Vice President

Cc: Alan VanVliet  
Ric Kuss

**RECEIVED**  
APR 17 2006  
WATER RESOURCES DEPT  
SALEM, OREGON



920 SW Emkay, Suite C100  
 Bend, Oregon 97702-1041  
 541.388.4255  
 Fax 541.388.4229

April 14, 2006

Oregon Water Resources Department  
 Measurement and Reporting Section  
 725 Summer Street, NE, Suite A  
 Salem, OR 97301-1271

**Re: Eagle Crest Resort  
 Groundwater Wells  
 Static Water Level Reporting  
 WHP File # 30036  
 OWRD Application No. G-11387, G-11824, G-12905, G-14857  
 WHP File No.: 31250.1005**

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 APR 17 2006  
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 SALEM, OREGON

Gentlemen/Ladies:

Ground Water Permit G-11762 stipulates recording of static water levels on an annual basis. I have compiled static water level readings for all Eagle Crest Resort wells for your review and use.

As in past years, we have provided static water level measurements for multiple wells at Eagle Crest. Water level readings have been obtained from existing air lines and pressure gauges. In all cases, the static water level measurements were taken from the top of the existing well casing. Static water level measurements in all wells are similar to conditions reported in past years. Static water level measurements were obtained between March 21st and 22nd, 2006.

The following table summarizes our static water level measurements and information on each well.

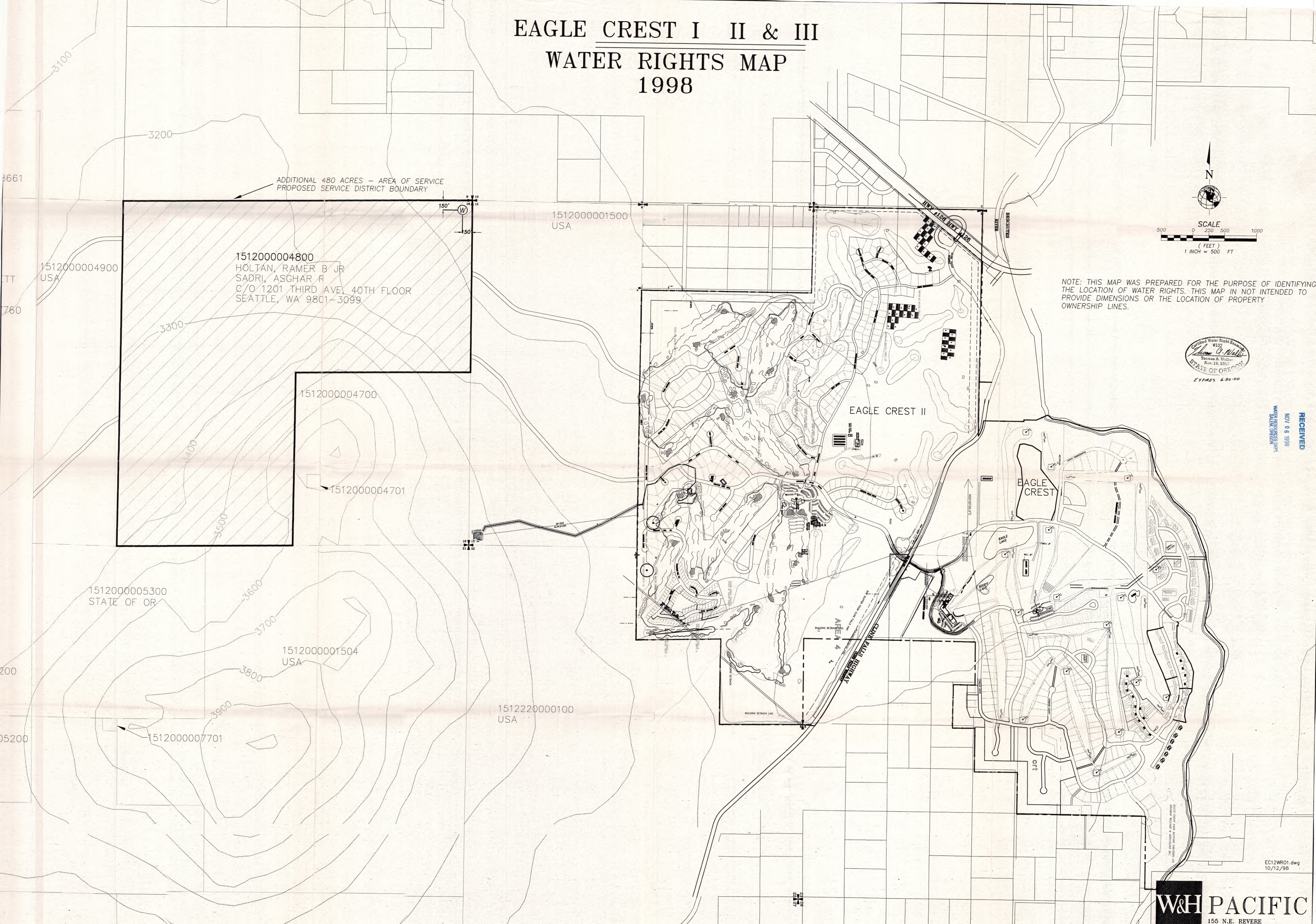
**EAGLE CREST WELLS  
 WATER LEVEL REPORTING**

Owner's Well Designation	Original Owner	Well Log Startcard #	Well Depth	Date Drilled	Casing Size	Driller	Permit #/ Application #	Static Water Level	Idle Period
ECI Well #2	Neil Chase	----	330'	8/20/79	10"	Lewis & Clark Drilling	G-10530 G-11387 <i>DESC 3614</i>	246'	6 hrs
ECI Well #3	Eagle Crest Resort	5310/8050	290'	8/18/89	12"	Crawford Well Drilling	G-10957 G-11824	245.5'	14 days
ECII Well #6	Eagle Ridge Dev. Corp.	36697	800'	2/20/92	14"	STACO	G-11762 G-12905	523'	30 days
ECII Well #7	Eagle Ridge Dev. Corp.	34267	800'	10/11/91	6"	STACO	G-11762 G-12905	523'	30 days

# EAGLE CREST I II & III

## WATER RIGHTS MAP

### 1998



ADDITIONAL 480 ACRES - AREA OF SERVICE  
PROPOSED SERVICE DISTRICT BOUNDARY

1512000004800  
HOLTAN, RAMER B JR  
SADRI, ASGHAR R  
C/O 1201 THIRD AVE, 40TH FLOOR  
SEATTLE, WA 9801-3099

1512000001500  
USA

1512000004700

1512000004701

1512000005300  
STATE OF OR

1512000001504  
USA

1512220000100  
USA

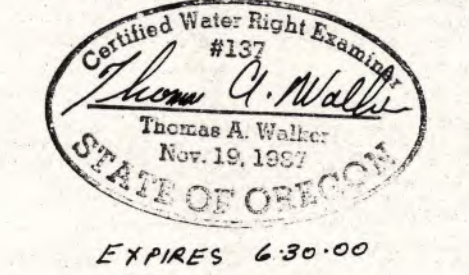
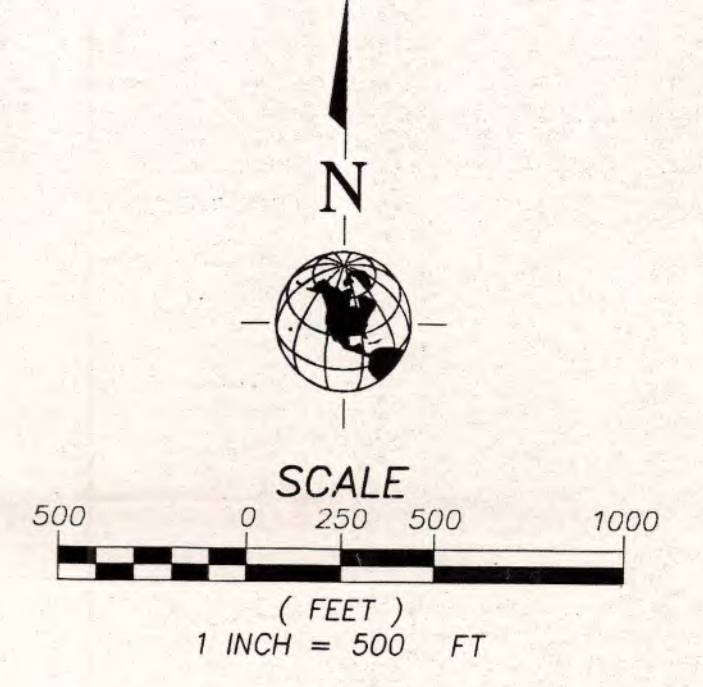
1512000007701

EAGLE CREST II

EAGLE CREST

CLANNA BILLS HIGHWAY

NOTE: THIS MAP WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF WATER RIGHTS. THIS MAP IS NOT INTENDED TO PROVIDE DIMENSIONS OR THE LOCATION OF PROPERTY OWNERSHIP LINES.



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 SALEM, OREGON

EC12WR01.dwg  
10/12/98

**W&H PACIFIC**  
155 N.E. REVERE

# Water Use Report

**RIC KUSS**  
**CLINE BUTTE UTILITY CO.; C/O EAGLE CREST RESORT**  
**1230 GOLDEN PHEASANT DR**  
**REDMOND OR 97756**

Pod Id	Facility	Cert	Permit	Appl	Claim	Priority	Township	Range	Sctn	Use	Rate	Acre Feet	Source	Tributar To
36346	WELL 7		G 11762	G 12905		05/04/1992	15.0S	12.0E	14	QM	3.0		WELL 1	DESCHUTES R

Water Year	Unit	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2005	AFT	0.0	0.0	0.0	0.0	0.90717	0.0	0.0	0.0	0.0	19.52309	30.93509	9.08823
2004	AFT	0.0	0.00031	0.0	1.05969	0.0	5.30981	0.08255	34.3563	4.47813	9.12935	10.54841	0.0
2002	AFT				5.35092	5.32607	8.64538	20.88967	39.49363	37.87233	44.17676	44.13226	47.01856
2001	AFT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2000	AFT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Pod Id	Facility	Cert	Permit	Appl	Claim	Priority	Township	Range	Sctn	Use	Rate	Acre Feet	Source	Tributar To
36347	WELL 6		G 11762	G 12905		05/04/1992	15.0S	12.0E	15	QM	3.0		WELL 2	DESCHUTES R

Water Year	Unit	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2005	AFT	24.00184	4.10925	0.0	0.0	1.43931	20.63526	24.98082	25.39819	53.31594	70.45266	59.07012	39.44146
2004	AFT	30.72886	1.66027	0.52785	0.0399	0.0	18.99954	42.7436	36.98328	60.08286	78.98112	46.77612	29.77137
2003	AFT	29.2742	5.02071	3.57833	1.54365	1.91499	6.05186	14.89949	34.39926	50.06598	60.4634	60.09513	51.33343
2002	AFT	33.46061	11.50906	0.0	4.74144	5.3276	3.04434	26.14086	35.67168	44.47138	60.05524	60.44499	51.96562
2001	AFT	37.06061	13.05876	6.58431	8.84993	7.09283	18.90412	36.30421	37.7727	74.37214	37.70159	41.16495	36.62484
2000	AFT	35.43102	11.36842	11.11984	10.71658	10.0316	12.48979	24.38852	33.29323	39.30336	41.10971	41.10971	37.22633

Pod Id	Facility	Cert	Permit	Appl	Claim	Priority	Township	Range	Sctn	Use	Rate	Acre Feet	Source	Tributar To
36348	WELL 8		G 11762	G 12905		05/04/1992	15.0S	12.0E	15	QM	3.0		WELL 3	DESCHUTES R

Water Year	Unit	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2005	AFT	12.12103	0.2643	0.0	0.0	0.0	7.50029	11.40148	13.72224	27.57658	47.727	37.40922	40.41036
2004	AFT	29.65499	27.69372	0.70652	0.0	0.0	8.45388	14.91794	24.45109	32.01824	43.70907	39.13354	20.39342
2003	AFT	2.00092	0.0	0.0	8.19241	2.02928	13.66027	1.00659	14.80098	39.1763	65.11308	42.58002	44.60825
2002	AFT	2.15858	0.34029	5.65069	1.82292	0.0	16.92465	0.55853	23.78112	20.53981	28.23292	25.52831	11.96685
2001	AFT	1.40309	1.32576	0.0	0.0	0.0	10.76753	5.08918	6.36909	12.16426	14.07794	16.71014	10.56944
2000	AFT	25.20607	0.00552	0.00552	0.0	0.04419	11.82139	6.45757	10.40724	20.35599	74.24827	41.12628	18.51097

Pod Id	Facility	Cert	Permit	Appl	Claim	Priority	Township	Range	Sctn	Use	Rate	Acre Feet	Source	Tributar To
60185	WELL 9		G 13856	G 14857		11/02/1998	15.0S	12.0E	16	QM	3.34		A WELL	DESCHUTES R

Water Year	Unit	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2005	AFT	57.60423	13.67981	9.04253	8.93233	8.42267	14.26532	28.98963	44.03116	65.73349	101.91137	108.94083	88.26088
2004	AFT	0.0	13.15569	6.32273	6.95192	5.81105	15.48659	25.46025	59.53242	57.91042	79.64363	77.82182	71.74481

550,774  
419.81

Pod Id	Facility	Cert	Permit	Appl	Claim	Priority	Township	Range	Sctn	Use	Rate	Acre Feet	Source	Tributar To
61961	WELL 2		G 10530	G 11387		05/20/1985	15.0S	12.0E	14	QM	0.4345		WELL 1	

Water Year	Unit	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2005	AFT	27.97606	4.33328	6.49379	6.69019	5.8708	8.93049	18.49931	29.087	45.76646	56.6457	53.80083	44.86727
2004	AFT	37.01703	5.03913	3.69188	5.86773	5.03606	10.86655	28.33512	41.62959	46.22372	53.41108	52.22035	44.98389

Pod Id	Facility	Cert	Permit	Appl	Claim	Priority	Township	Range	Sctn	Use	Rate	Acre Feet	Source	Tributar To
61962	WELL 3		G 10530	G 11387		05/20/1985	15.0S	12.0E	23	QM	1.27		WELL 2	

Water Year	Unit	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2005	AFT	18.48519	0.63342	0.06107	0.0	0.0	0.62452	0.01412	2.18383	0.0	51.18153	63.05355	59.50744
2004	AFT	0.25012	0.0	0.00614	0.0	0.0	31.17692	21.57741	0.0	0.0806	55.03391	43.94998	36.49471



# Oregon

Theodore R. Kulongoski, Governor

## Water Resources Department

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

February 7, 2003

G 13856  
JEROL, ANDRES  
CLINE BUTTE UTILITY COMPANY  
1140 NUTCRACKER  
REDMOND, OR 97756

RE: Deschutes Ground Water Mitigation Rules, Division 505  
Deschutes Basin Mitigation Bank and Mitigation Credit Rules, Division 521

Dear Water Right Permit Holder:

Our records indicate that you are the holder of a ground water permit issued by the Department after July 17, 1995, in the Deschutes Basin Ground Water Study Area (Study Area). Your permit (or subsequent certificate) was issued with a condition allowing for regulation of use if it was later determined that the use would "measurably reduce" scenic waterway flows in the Deschutes River.

As you may be aware, the Department has been working over the last several years to develop administrative rules that address the impact of ground water use in the Study Area upon surface water flows—specifically those flows designated for the Deschutes Scenic Waterway and Instream Water Rights. Recently, the Department finalized the Deschutes Ground Water Mitigation Rules and Deschutes Basin Mitigation Bank and Mitigation Credit Rules. The rules were adopted by the Water Resources Commission (WRC) on September 13, 2002, and were effective on September 27, 2002. Copies of the rules can be obtained from the Department's web page at:

<http://www.wrd.state.or.us/law/oar1999.shtml>

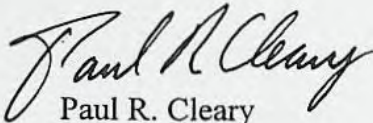
The primary purpose of the rules is to provide a mechanism for those with pending ground water use applications in the Study Area to mitigate for the impact of their proposed ground water use on surface water flows. The rules do not require those with existing conditioned ground water permits (or subsequent certificates) in the Study Area to mitigate for their ground water uses.

While only those requesting new ground water uses from the Department are required to provide mitigation, the rules provide an opportunity for holders of existing conditioned permits to provide mitigation. Holders of existing conditioned permits that provide mitigation will no longer be subject to future regulation for scenic waterway flows.

Department staff are presently working internally to develop the processes and structure to implement the new rules. While you are not required to mitigate for your ground water use, we will be sending you a letter, sometime within the next several months, letting you know what you would need to do if you choose to mitigate for your ground water use. You may also receive additional information updates from the Department in our effort to keep you informed.

If you have any questions about the new administrative rules for the Deschutes Basin and the mitigation opportunity described in the rules; or would like to request a copy of the new rules, please contact Laura Snedaker at (503) 378-8455, extension 331, or by e-mail at [Laura.K.Snedaker@wrd.state.or.us](mailto:Laura.K.Snedaker@wrd.state.or.us).

Sincerely,

A handwritten signature in cursive script that reads "Paul R. Cleary".

Paul R. Cleary  
Director

c: Kyle Gorman, South Central Region Manager  
Jeremy Giffin, District 11 Watermaster  
Deschutes Steering Committee Members

to clarify how the Department is to address the impacts of ground water appropriations on Scenic Waterways. The Water Resources Commission administers and enforces the ground water provisions of the statute [ORS 390.835 (9-13)].

The statute makes it clear that the amendments do not apply to applications for ground water rights unless the Department makes a finding "that the use of ground water will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife." The Department reviews every ground water application to determine if the use will measurably reduce surface water flows. If there are impacts, the application will be denied unless mitigation is provided. Each ground water permit or certificate issued, whose source of appropriation is within or above a scenic waterway, is conditioned. The condition allows the regulation of the use if data available after the permit or certificate is issued shows that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of the scenic waterway.

Since the amendments were adopted, ground water permits amounting to approximately 207 cfs have been issued in or above the Deschutes scenic waterway.

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### INSTREAM WATER RIGHTS

#### Provisions of Instream Water Right Statutes

The ability to issue water rights for instream purposes was created by the Oregon Legislature in 1987. Instream water rights may be established to benefit fish and aquatic life, to provide water for pollution abatement or to provide water for recreation purposes. Water rights for these purposes may be applied for by Oregon Department of Fish and Wildlife, Department of Environmental Quality or Parks and Recreation Department, respectively. Each instream water right certificate issued specifies the reach of river to which the right applies and the rate of flow necessary to satisfy the right. The Oregon Water Resources Department holds and protects the instream water right for the benefit of the State.

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SALEM, OREGON

Two separate instream water rights have been issued to protect surface water flows in the Lower Deschutes River from Pelton Reregulation Dam to the mouth at the Columbia River. The most recent right has a priority date of January 16, 1991, and is the larger of the two. It was issued for fish migration, spawning, egg incubation, fry emergence and juvenile rearing. Instream flow values are presented in Table 1.

#### Significance of Instream Water Right Flows

Instream water rights have the same status and effect as all other water rights. The right has a priority date and can be regulated to serve senior water rights holders. The existence of an instream right, along with all other previously-issued water rights, is considered in determining whether water is available for new appropriations. New rights, other than instream flow rights, can be issued only if surface water is available.

ALLOCATION POLICY

Since adoption of the Water Resource Commission's "Allocation Policy" in 1992 (OAR 690-410-070), water availability determinations have been based on an 80% "exceedance" standard. Only when water is available greater than 80% of the time can additional water rights be issued. If ground water development impacts surface water supply, the issuance of ground water rights is also subject to surface water availability.

TABLE 1

This represents the amounts of water required to satisfy the instream water rights and scenic waterway flows.

FLOW NEEDS ON THE DESCHUTES RIVER AT THE MADRAS GAGE \*

Month	Instream** Water Right	Scenic Water- way	Natural Flow	CU+ Storage	Madras Gage	Net Available
Jan	4500	4500	4310	595	4310	- 785
Feb	4500	4500	4540	661	4290	- 621
Mar	4500	4500	5040	875	4380	- 335
Apr	4000	4000	5280	649	3990	651
May	4000	4000	5170	443	3880	727
Jun	4000	4000	4850	479	3880	371
Jul	4000	4000	4090	489	3780	- 399
Aug	3500	3500	3880	429	3770	- 49
Sep	3800	3800	3980	359	3770	- 179
Oct	3800	3800	4070	593	3830	- 323
Nov	3800	3800	4130	793	4260	- 463
Dec	4500	4500	4230	713	4330	- 983

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Flows  
NOT  
BEING  
MET

\* Water Availability, Natural Flow and Madras Gage based on 80% exceedance calculations. Units are cubic feet per second (cfs) rounded to the nearest whole cfs.  
 \*\* Priority date: 1/16/91. Extends from Pelton Reregulation Dam to mouth. Instream Water Rights do not have priority over human and livestock consumption.  
 CU = Consumptive Use

Several conclusions are apparent from the table. No water is available for further diversion from the river below Pelton Reregulation Dam during nine months of the year. This is the direct result of subtracting established uses (Consumptive Use + Storage) from the natural flow. When that difference is less than the established scenic waterway flow, no water is available. The last column in the table indicates by how much the scenic waterway flow and instream water right fail to be met.

Table 1 also allows easy comparison of actual flow past the Madras gage with established scenic waterway flows and instream water rights. Only in the months of August, October and November do actual flows exceed scenic waterway flows and

instream water rights more than 80% of the time.

### WATER RIGHTS ACTIVITY

Since adoption of the 1995 amendments to the Scenic Waterway Act, 165 new ground water rights have been issued in the Upper Deschutes Basin, within the Deschutes Ground Water Study Area, appropriating just under 207 cfs. Of those, 177 cfs are for primary and 29.9 cfs are for supplemental uses. Rights for these uses are conditioned to be regulated if and when data and analysis show that they measurably reduce flows necessary to maintain the free flowing character of the scenic waterway.

Three hundred thirty-nine ground water rights had been issued in the study area prior to amendment of the Scenic Waterway Act. Those rights amount to a total of 201.8 cfs - 147.3 cfs for primary and 54.5 cfs for supplemental use. These rights are not conditioned to allow regulation to benefit the scenic waterway.

Altogether, permits totaling 408 cfs have been issued within the study area. Applications for significant additional ground water appropriations are currently before the Department.

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### CONCLUSIONS

Economic growth in the Deschutes basin is robust. That growth demands water. Surface water sources in the Deschutes Basin are already fully appropriated and not available for new development. This means current and future growth will depend heavily on ground water. Yet, on the basis of current information, WRD would not be able to approve applications for new ground water uses without adequate mitigation measures, and in fact, may soon face the obligation to curtail some existing ground water uses in order to protect scenic waterway flows, and senior water rights, including instream water rights.

Examination of the results of the nearly completed ground water study, state water management statutes and Water Resources Commission policies, along with an awareness of current development trends in the Deschutes basin leads to the following conclusions:

- ▶ Continued economic growth in the basin will require additional water supplies.
- ▶ Ground water in the upper basin is tributary to surface water.
- ▶ Consumptive ground water use in the upper basin reduces surface water availability in the lower river.
- ▶ Under the Department's allocation policy, water is not available in the Deschutes

River below Pelton Reregulation Dam for new consumptive uses nine months of the year.

- ▶ Surface water resources within the basin are currently allocated to consumptive rights, instream water rights and scenic waterway flows. Because of the interconnection of ground water and surface water, ground water use places further demands on surface water resources. If it is necessary to mitigate those demands on the surface water resources, additional supplies of water will be necessary to accomplish the mitigation. It is unlikely that sufficient water exists in the Deschutes Basin to satisfy all these needs.
- ▶ Ground water rights issued since the 1995 amendments to the Scenic Waterway Act are subject to regulation to the benefit of the scenic waterway.
- ▶ Ground water rights issued since January 16, 1991, are subject to regulation to the benefit of the instream water rights below Pelton Reregulation Dam.
- ▶ Mitigation or creative water management planning may help to allow continued exercise of issued rights or issuance of new rights.
- ▶ The Water Resources Department is committed to finding ways to supply water necessary to accommodate growth while protecting instream values represented by scenic waterway flows and instream water rights.

#### DISCUSSION TOPICS

The following topics are intended to stimulate discussion with basin water users and decision makers and lead to a complete list of options for resolving the current water supply issues.

- ▶ Mitigation opportunities and impacts.
- ▶ Administrative tools available to the Water Resources Department
  - ▶ Basin Plan Classification
  - ▶ Basin Plan Withdrawal
  - ▶ Critical Ground Water Area declaration
  - ▶ Regulation for ground water / surface water interference
  - ▶ Regulation under permit conditions
- ▶ Potential surface storage options.
- ▶ Potential artificial ground water recharge opportunities.
- ▶ Alternative surface water management scenarios.

*2 SWMP # 11 signed with state*

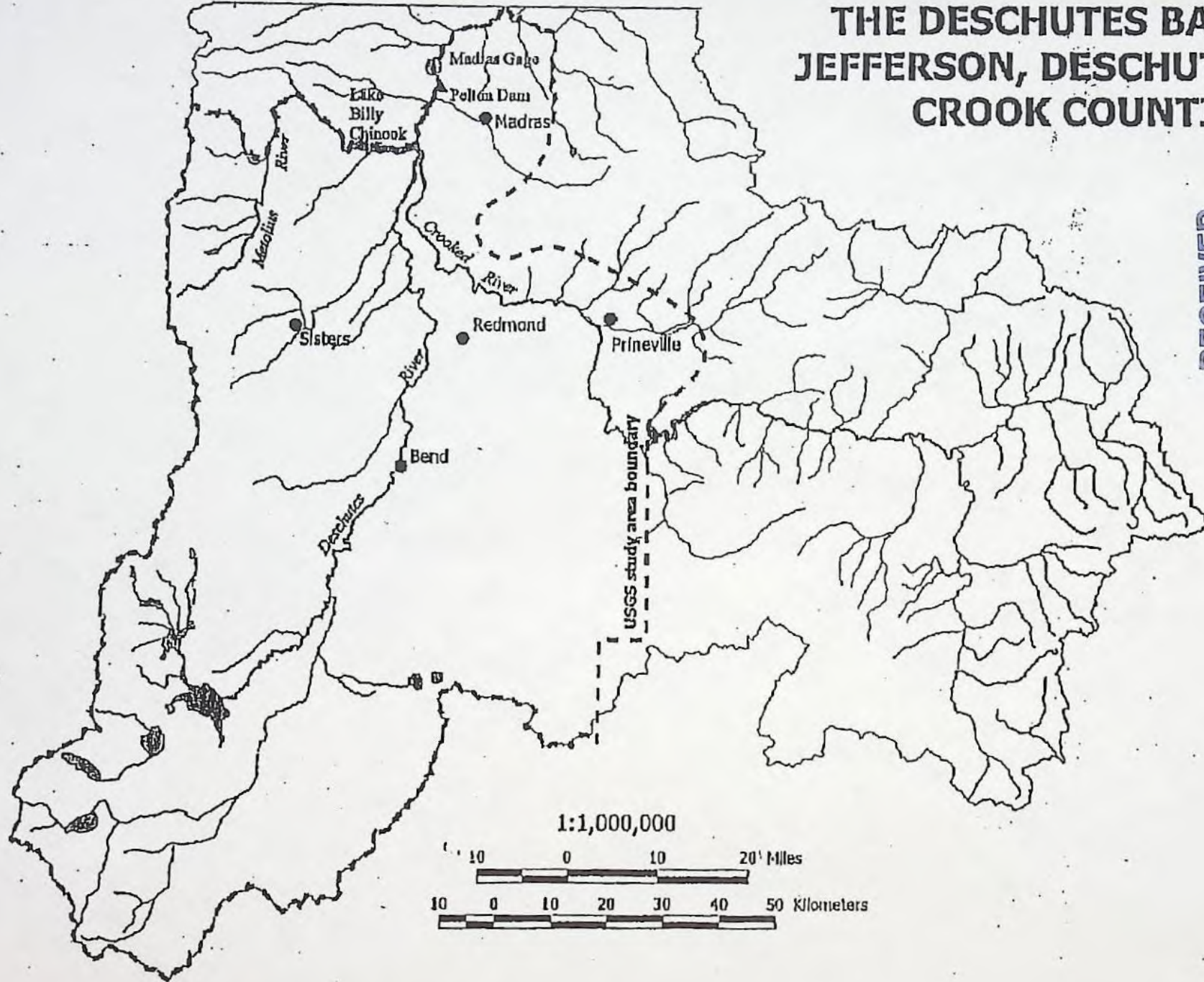
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**WATER RESOURCES DEPT.  
SALEM, OREGON**

# THE DESCHUTES BASIN IN JEFFERSON, DESCHUTES, AND CROOK COUNTIES



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Figure 1



# DESCHUTES BASIN STATE SCENIC WATERWAYS

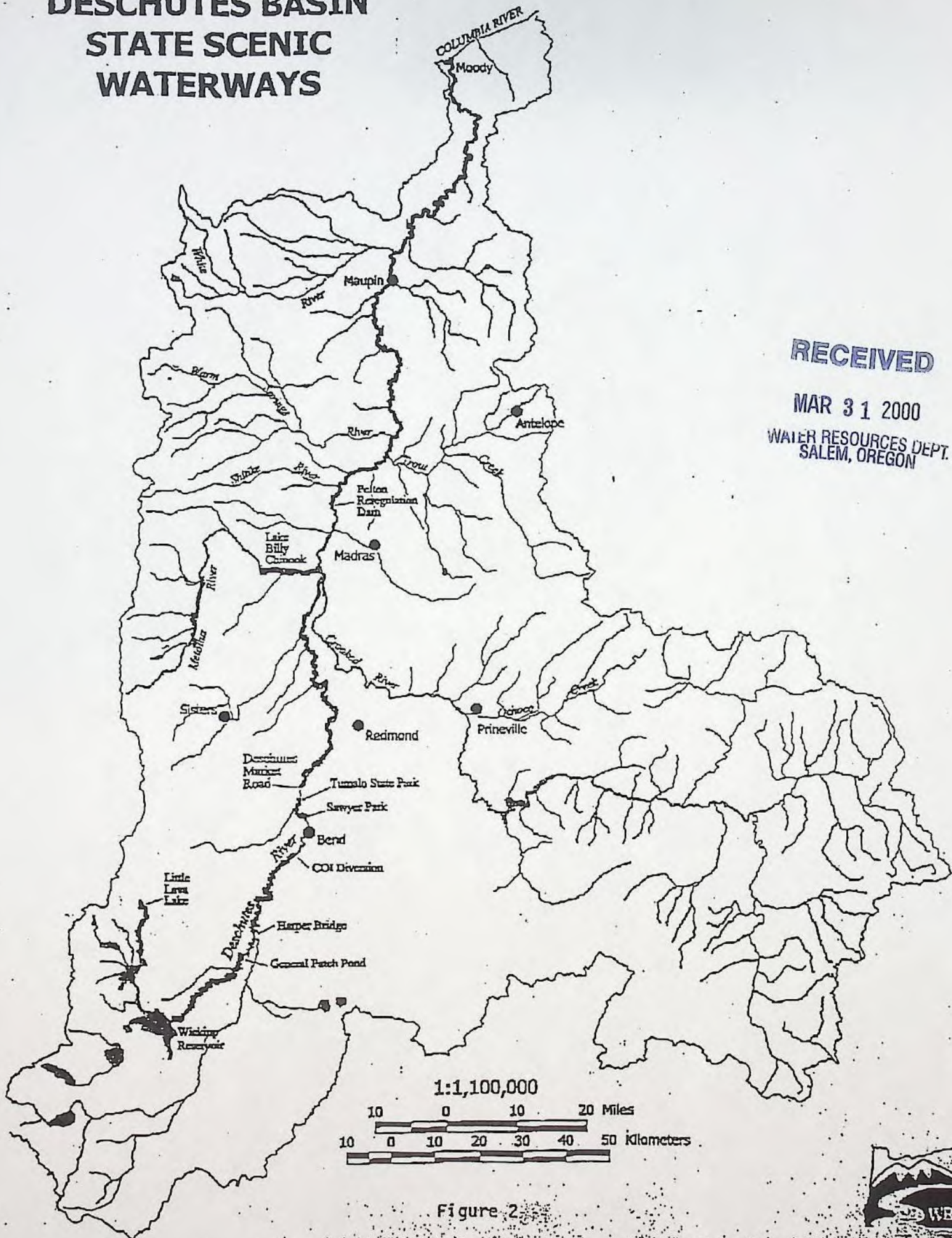


Figure 2



28

STATE OF OREGON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

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

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

Source: DESCHUTES RIVER TRIBUTARY TO COLUMBIA RIVER

County ~~DESCHUTES~~ JEFFERSON

Purpose: Provide adequate flows to maintain a significant salmon, steelhead and trout fishery. These flows will also provide for recreational fishing, drift, and power boating, and aesthetics in a state and federal scenic waterway

To be maintained in:

DESCHUTES RIVER AT PELTON REGULATION DAM AT RIVER MILE 100.1 (SESW, SECTION 1, T10S, R12E, WM) TO THE CONFLUENCE WITH THE COLUMBIA RIVER (SWSW, SECTION 24, T2N, R15E, WM)

The right is established under Oregon Revised Statutes 537.341.

The date of priority is 10/2/89.

The following conditions apply to the use of water under this certificate:

1. The right is limited to not more than the amounts, in cubic feet per second, during the time periods listed below:

Anadromous and resident fish passage and spawning:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
3000	3000	3500	3500	3500	3500	3000	3000	3000	3000	3000	3000

Recreational fishing/boating:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
3000	3000	3500	3500	3500	3500	3000	3000	3000	3000	3000	3000

2. The water right holder shall measure and report the in-stream flow along the reach of the stream or river described in the certificate as may be required by the standards for in-stream water right reporting of the Water Resources Commission.
3. For purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
4. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.
5. The flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.

Witness the signature of the Water Resources Director, affixed OCTOBER 21, 1996.

*Martha O. Pagel*

Martha O. Pagel

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SALEM, OREGON

STATE OF OREGON  
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

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

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

Source: DESCHUTES R TRIB COLUMBIA R

County: Jefferson/Wasco

Purpose: Migration, spawning, egg incubation, fry emergence, and juvenile rearing.

To be maintained in:

DESCHUTES RIVER FROM PELTON REGULATION DAM, RIVER MILE 100.1 (SESW, SECTION 1, T10S, R12E) JEFFERSON COUNTY; TO THE MOUTH, RIVER MILE 0.0 (SWSW, SECTION 23, T2N, R15E) WASCO COUNTY

The right is established under Oregon Revised Statutes 537.341.

The date of priority is 1/16/91.

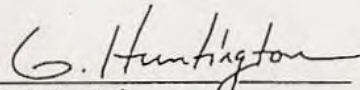
The following conditions apply to the use of water under this certificate:

1. The right is limited to not more than the amounts, in cubic feet per second, during the time periods listed below:

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
4500	4500	4500	4000	4000	4000	4000	3500	3500	3800	3800	3800
4500	4500	4000	4000	4000	4000	3500	3500	3800	3800	3800	4500

2. The water right holder shall measure and report the in-stream flow along the reach of the stream or river described in the certificate as may be required by the standards for in-stream water right reporting of the Water Resources Commission.
3. For purposes of water distribution, this instream right shall not have priority over human or livestock consumption.
4. The instream flow allocated pursuant to this water right is not in addition to other instream flows created by a prior water right or designated minimum perennial stream flow.
5. The flows are to be measured at the lower end of the stream reach to protect necessary flows throughout the reach.

Witness the signature of the Water Resources Director,  
affixed OCTOBER 21, 1996.

  
Martha O. Pagel

Recorded in State Record of Water Right Certificate number 73237.

IS 71194

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WATER RESOURCES DEPT.  
SALEM, OREGON

**W&H PACIFIC**920 S.W. Emkay Dr., Suite C-100  
Bend, Oregon 97702

3

July 2, 1999

*Revised February 9, 2000*Mr. Dwight French  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310**RECEIVED****MAR 31 2000**WATCH RESOURCES DEPT.  
SALEM, OREGON**RE: Eagle Crest III  
OWRD File No. G-14857  
Deschutes Basin Groundwater Withdrawal  
Mitigation Plan  
WHP File No. 526-0107**

Dear Dwight:

Thank you for your continuing assistance on the pending groundwater appropriation application for Eagle Crest, Inc. in the Deschutes River Basin. We received an initial review which described the potential for a groundwater connection to Deschutes River surface water flows. I have compiled the following mitigation plan, intended to offset any impacts to surface water from our proposed groundwater withdrawal. Your review and approval are respectfully requested.

**Eagle Crest III Introduction**

Eagle Crest III is a proposed expansion of the existing Eagle Crest Resort, located approximately four miles west of Redmond, Oregon. Eagle Crest III will encompass approximately 480 acres, approximately 900 resort dwelling units, and appropriate recreational amenities. No golf course, nor significant irrigation requirements are expected. Eagle Crest III will be operated and managed as an integral part of the existing resort.

The domestic water supply requirements for Eagle Crest III will be provided by a new groundwater well and a connection to the existing domestic water distribution system. The connection to the existing system will provide a redundant backup supply for the entire resort, sharing reservoirs and distribution piping, and improving the overall efficiency of the water supply system.

**Water Right Summary**

Eagle Crest, Inc. has filed an application for a quasimunicipal groundwater appropriation to serve the Eagle Crest expansion. The pending water right application seeks a maximum diversion of 3.34 cfs.

Water consumption at a destination resort is very different from the domestic consumption at a municipality. The occupancy at a destination resort will typically be high during the summer season, relatively high during the winter weekends or holidays, and very low the rest of the time. Water use varies significantly between weekends and weekdays, between the seasons of the year, and even during the hours of the day.

February 9, 2000

Page 2

Groundwater wells at Eagle Crest will pump directly into the water distribution system whenever the project reservoirs are drawn down. The well pump will operate for a very short duration during the slack season of the resort, and will operate many more hours per day during the busy season. **The maximum diversion requested in the water right application will only be required a few days of the year and only after full buildout of the resort.**

#### Consumptive Use of Water at Eagle Crest

We can estimate the water consumption for the proposed expansion of Eagle Crest by utilizing historical consumption from the existing resort development. We utilized water meter records from the existing resort wells to determine the average total water consumption for each dwelling unit, on an annual basis. We used this actual average water consumption and applied it to the proposed 900 units at Eagle Crest III, to determine the total volume of water required on an annual basis, at Eagle Crest III.

Sewage at Eagle Crest is collected in a community sewer system, treated, and discharged in a subsurface drainfield. The sewage drainfield represents a recharge to the groundwater system. In the Deschutes Basin Groundwater Study, the recharge from sewage drainfields was considered to offset the consumptive use of groundwater. We have again utilized the existing resort units to estimate the average annual volume of sewage.

Our historical records at Eagle Crest demonstrate that a typical residential unit at Eagle Crest will require 0.28 acre feet of water from the domestic water supply system each year. This consumption is offset by a sewage contribution of 0.15 cubic feet. The net consumptive use is 0.13 acre feet per year.

At Eagle Crest III, the 900 proposed residential units are expected to result in a total consumptive use, at full buildout, of 115 acre feet per year. This net consumptive use of the groundwater withdrawal should be mitigated, proportionally to buildout of the resort expansion, to prevent impacts on surface water flows in the Deschutes basin.

We recognize that water consumption will vary from year to year and from neighborhood to neighborhood. Our calculations provide an estimate only. Actual consumption at Eagle Crest III can be measured accurately and adjustments made as the resort develops.

#### Groundwater Mitigation Concept

The Oregon Water Resources Department has determined from an extended groundwater study in the Deschutes basin that significant groundwater is available. Groundwater in the Deschutes basin typically discharges to the Deschutes River in the general vicinity of Lake Billy Chinook. Because of this connection between the groundwater and the surface water, and because all surface water rights are not met in the lower Deschutes River, groundwater withdrawals require some mitigation.

The Oregon Water Resources Department established a Deschutes Basin Task Force to evaluate water supplies, establish a reliable source of water for users in the basin, and to develop a mitigation plan to accommodate groundwater withdrawals in the Deschutes Basin. A task force has been formed and is currently operating effectively. While the Deschutes Basin Task Force develops its findings and recommendations on a long-term water supply for the basin, water right permit applications have been placed on administrative hold. Once the work of the Task Force is completed, then regional-wide mitigation should be made available to users throughout the Deschutes Basin, and pending or new appropriation applications can be processed. The on-going work of the Task Force has provided significant guidance to Eagle Crest in establishing an appropriate mitigation plan.

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WATER RESOURCES DEPT.  
SALEM, OREGON

February 9, 2000

Page 3

Eagle Crest proposes mitigation for the total consumptive use of groundwater at the proposed resort expansion project. Eagle Crest proposes to mitigate the proposed groundwater withdrawal with the dedication of irrigation rights to an instream use. This proposal assures an immediate and effective mitigation to cover the immediate water needs of Eagle Crest.

The middle reach of the Deschutes River immediately below Bend, may very well have the greatest need for surface water mitigation. Eagle Crest proposes to dedicate surface water to an instream use, below the City of Bend, as mitigation for a groundwater withdrawal. This proposed mitigation should have the greatest beneficial effect on the Deschutes River because it adds water in the lowest flow section of the river and adds water that can subsequently be stored at Lake Billy Chinook.

Eagle Crest will not consume any appreciable volume of water over the next few years, because of the land use approval schedule and initial construction. Water consumption of Eagle Crest will grow slowly as residences are built and homes occupied. Based upon our experiences at the existing resort, we would expect 10 to 20 years to approach full buildout of the resort. For the purposes of this mitigation, we have assumed residential building construction would start in the year 2000 and we have assumed the expansion project would approach full buildout 10 years later. We propose that the dedication of surface water to an instream use be implemented within two years after OWRD issuance of the groundwater permit, to assure gallon for gallon mitigation for the near-term development of the resort. Likely, the mitigation will exceed the actual consumption based upon this schedule. **The Eagle Crest groundwater appropriation will be limited to the amount mitigated.** As the Deschutes Basin Task Force completes their work, Eagle Crest will have the right to choose the regional Task Force mitigation or to dedicate in-stream rights.

#### Water Right Transfer To An Instream Lease

Eagle Crest, Inc. owns a Swalley Irrigation District water right under Certificates No. 29054 and 29056. The water right is currently utilized to irrigate a golf course and grounds on a portion of the existing resort. Eagle Crest proposes to transfer the appropriate acreage of the existing Swalley Irrigation water right to offset the consumptive use of water on the expansion project, on a gallon for gallon basis. As noted, Eagle Crest may also elect to choose the regional Task Force mitigation, but appropriate mitigation must be in place before groundwater withdrawals may occur.

The following diversion rates and schedules are specified in the referenced Swalley Irrigation District permit:

- |   |               |
|---|---------------|
| ➤ April 1 to April 30 and October 1 to November 1:  | .012 CFS/ACRE |
| ➤ May 1 to May 14 and September 15 to September 30: | .016 CFS/ACRE |
| ➤ May 15 to September 14:                           | .030 CFS/ACRE |

These diversion rates include a 43% canal transmission loss. Excluding the canal transmission loss reduces the proposed mitigation to 57% of the rates shown. The OWRD special order for the Swalley Irrigation District rights further describes a maximum diversion of 9.56 acre-feet for each acre irrigated, again including the canal conveyance loss. The total diversion is equivalent to 5.46 acre-feet for each acre irrigated, excluding the canal conveyance loss.

Eagle Crest, Inc. proposes to dedicate 21 acres of the Swalley Irrigation District right to an instream use to mitigate approximately the estimated total consumptive use of water at Eagle Crest III. Eagle Crest is proposing to dry 21 acres of grounds that are currently irrigated, and transfer those water rights to an instream use for mitigation.

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WATER RESOURCES DEPT.  
SALEM, OREGON

February 9, 2000

Page 4

The regional mitigation strategy for the Deschutes Basin, currently being developed by the Deschutes Basin Task Force, may provide an alternative for Eagle Crest to mitigate consumptive use. Eagle Crest reserves the right to either participate in the regional mitigation or deliver the 21 acres of the Swalley Irrigation District right, to provide the needed mitigation. Regardless of the selected mitigation, the actual consumptive use of water at Eagle Crest III will be metered and groundwater withdrawals will be limited to the amount mitigated.

### Summary

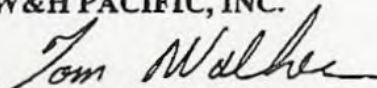
In summary, Eagle Crest is proposing a 480 acre destination resort development. A new groundwater well is required to serve that proposed development. Because groundwater and surface water are connected in the Deschutes basin and surface water rights are not met, then mitigation is required to offset potential surface water impacts. Eagle Crest has calculated the estimated total consumptive use of groundwater at the proposed development project and is prepared to mitigate the withdrawal by dedicating surface water irrigation rights to an instream use and/or participating in the regional mitigation solution being developed by the Deschutes Basin Task Force.

The Swalley Irrigation water rights will remain in the Deschutes River, rather than being withdrawn at the City of Bend. This mitigation will provide a significant benefit to the middle reach of the Deschutes River, which has historically experienced low summer time flows. Mitigation in the middle reach of the Deschutes River has been identified by the Deschutes Basin Taskforce as a very desirable outcome of the mitigation program.

Your review and approval of this mitigation plan are respectfully requested. Upon approval, we would expect that the pending Eagle Crest permit processing would proceed. Subject to the outcome of that standard water right application process, a water right permit will be issued.

Please consider my comments and recommendations and never hesitate to contact me if you have questions or need additional information.

Very Truly Yours,  
W&H PACIFIC, INC.

  
Thomas A. Walker, P.E., C.W.R.E.  
Vice President

Cc: Alan VanVliet

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**WATER RESOURCES DEPT.  
SALEM, OREGON**



5

DETAILED REPORT ON WATER AVAILABILITY

Basin: DESCHUTES  
 Stream: DESCHUTES R ab SHITIKE CR @ PELTON DAM  
 Water Availability Subbasin: 0103400000000000  
 Time: 07:59

Exceedance Level: 80  
 ID Number: 30530643  
 Date: 04/29/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	4310.00	620.00	3690.00	41.80	3648.00	4500.00	-852.00
2	4540.00	679.00	3860.00	43.10	3817.00	4500.00	-683.00
3	5040.00	933.00	4110.00	64.40	4046.00	4500.00	-454.00
4	5280.00	958.00	4320.00	68.00	4252.00	4000.00	252.00
5	5170.00	1140.00	4030.00	39.80	3990.17	4000.00	-9.83
6	4850.00	1200.00	3650.00	82.50	3568.00	4000.00	-432.00
7	4090.00	996.00	3090.00	82.60	3007.00	4000.00	-993.00
8	3880.00	865.00	3010.00	82.40	2928.00	3500.00	-572.00
9	3980.00	727.00	3250.00	82.20	3168.00	3800.00	-632.00
10	4070.00	755.00	3320.00	39.30	3281.00	3800.00	-519.00
11	4130.00	815.00	3310.00	39.30	3271.00	3800.00	-529.00
12	4230.00	737.00	3490.00	39.30	3451.00	4500.00	-1049.00
Stor	3590000	624000	2970000	42200	2930000	2930000	155000

DETAILED REPORT OF ISWRs

Basin: DESCHUTES  
 Stream: DESCHUTES R ab SHITIKE CR @ PELTON DAM  
 Water Availability Subbasin: 0103400000000000  
 Time: 07:59

Date: 04/29/1999

ISWRs							
APP #	-90506C	0	0	0	0	0	RESULTANT
STATUS	Scenic WW						
1	4500.00	.00	.00	.00	.00	.00	4500.00X
2	4500.00	.00	.00	.00	.00	.00	4500.00X
3	4500.00	.00	.00	.00	.00	.00	4500.00X
4	4000.00	.00	.00	.00	.00	.00	4000.00X
5	4000.00	.00	.00	.00	.00	.00	4000.00X
6	4000.00	.00	.00	.00	.00	.00	4000.00X
7	4000.00	.00	.00	.00	.00	.00	4000.00X
8	3500.00	.00	.00	.00	.00	.00	3500.00X
9	3800.00	.00	.00	.00	.00	.00	3800.00X
10	3800.00	.00	.00	.00	.00	.00	3800.00X
11	3800.00	.00	.00	.00	.00	.00	3800.00X
12	4500.00	.00	.00	.00	.00	.00	4500.00X

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 SALEM, OREGON

DETAILED REPORT ON WATER AVAILABILITY

Basin: DESCHUTES  
 Stream: DESCHUTES R ab EAGLE CR  
 Water Availability Subbasin: 0103000000000000  
 Time: 07:59

Exceedance Level: (80)  
 ID Number: 30530627  
 Date: 04/29/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	4700.00	625.00	4070.00	41.80	4028.00	4500.00	-472.00
2	5070.00	686.00	4380.00	43.10	4337.00	4500.00	-163.00
3	5640.00	931.00	4710.00	64.40	4646.00	4500.00	146.00
4	5920.00	884.00	5040.00	68.10	4972.00	4000.00	972.00
5	5710.00	1010.00	4700.00	39.90	4660.00	4000.00	660.00
6	5260.00	1050.00	4210.00	82.50	4127.00	4000.00	127.00
7	4420.00	822.00	3600.00	82.70	3517.00	4000.00	-483.00
8	4160.00	745.00	3410.00	82.50	3327.00	3500.00	-173.00
9	4260.00	638.00	3620.00	82.20	3538.00	3800.00	-262.00
10	4370.00	714.00	3660.00	39.40	3621.00	3800.00	-179.00
11	4460.00	814.00	3650.00	39.30	3611.00	3800.00	-189.00
12	4600.00	739.00	3860.00	39.30	3821.00	4500.00	-679.00
Stor	4030000	579000	3450000	42200	3410000	2930000	487000

DETAILED REPORT OF ISWRs

Basin: DESCHUTES  
 Stream: DESCHUTES R ab EAGLE CR  
 Water Availability Subbasin: 0103000000000000  
 Time: 07:59

Date: 04/29/1999

-----ISWRs-----						
APP #	-90506B	70087B	71194B	0	0	RESULTANT
STATUS	Scenic WW	Cert.	Cert.			
1	4500.00	3000.00	4500.00	.00	.00	4500.00X
2	4500.00	3000.00	4500.00	.00	.00	4500.00X
3	4500.00	3500.00	4500.00	.00	.00	4500.00X
4	4000.00	3500.00	4000.00	.00	.00	4000.00X
5	4000.00	3500.00	4000.00	.00	.00	4000.00X
6	4000.00	3500.00	4000.00	.00	.00	4000.00X
7	4000.00	3500.00	4000.00	.00	.00	4000.00X
8	3500.00	3500.00	3500.00	.00	.00	3500.00X
9	3800.00	3500.00	3800.00	.00	.00	3800.00X
10	3800.00	3000.00	3800.00	.00	.00	3800.00X
11	3800.00	3000.00	3800.00	.00	.00	3800.00X
12	4500.00	3000.00	4500.00	.00	.00	4500.00X

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WATER RESOURCES Dept.  
 SALEM, OREGON

DETAILED REPORT ON WATER AVAILABILITY

Basin: DESCHUTES  
 Stream: DESCHUTES R @ mouth  
 Water Availability Subbasin: 0100000000000000  
 Time: 07:59

Exceedance Level: (80)  
 ID Number: 14103000  
 Date: 04/29/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	4970.00	640.00	4330.00	43.30	4287.00	4500.00	-213.00
2	5530.00	700.00	4830.00	45.00	4785.00	4500.00	285.00
3	6140.00	960.00	5180.00	66.00	5114.00	4500.00	614.00
4	6470.00	930.00	5540.00	69.90	5470.00	4000.00	1470.00
5	6220.00	1120.00	5100.00	39.90	5060.00	4000.00	1060.00
6	5560.00	1170.00	4390.00	82.60	4307.00	4000.00	307.00
7	4610.00	910.00	3700.00	82.80	3617.00	4000.00	-383.00
8	4320.00	820.00	3500.00	82.60	3417.40	3500.00	-82.60
9	4410.00	700.00	3710.00	82.30	3628.00	3800.00	-172.00
10	4520.00	760.00	3760.00	39.60	3720.40	3800.00	-79.60
11	4610.00	820.00	3790.00	39.80	3750.20	3800.00	-49.80
12	4820.00	750.00	4070.00	40.20	4030.00	4500.00	-470.00
Stor	4360000	616000	3740000	42800	3700000	2930000	769000

DETAILED REPORT OF ISWRs

Basin: DESCHUTES  
 Stream: DESCHUTES R @ mouth  
 Water Availability Subbasin: 0100000000000000  
 Time: 07:59

Date: 04/29/1999

-- ISWRs --						
APP #	-90506A	70087A	71194A	0	0	RESULTANT
STATUS	Scenic WW	Cert.	Cert.			
1	4500.00	3000.00	4500.00	.00	.00	4500.00X
2	4500.00	3000.00	4500.00	.00	.00	4500.00X
3	4500.00	3500.00	4500.00	.00	.00	4500.00X
4	4000.00	3500.00	4000.00	.00	.00	4000.00X
5	4000.00	3500.00	4000.00	.00	.00	4000.00X
6	4000.00	3500.00	4000.00	.00	.00	4000.00X
7	4000.00	3500.00	4000.00	.00	.00	4000.00X
8	3500.00	3500.00	3500.00	.00	.00	3500.00X
9	3800.00	3500.00	3800.00	.00	.00	3800.00X
10	3800.00	3000.00	3800.00	.00	.00	3800.00X
11	3800.00	3000.00	3800.00	.00	.00	3800.00X
12	4500.00	3000.00	4500.00	.00	.00	4500.00X

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WATER RESOURCES DEPT.  
 SALEM, OREGON

WATER AVAILABILITY TABLE

Basin: DESCHUTES Exceedance Level: 80  
 Water Availability Subbasin: 0103400000000000 (and Nested Subbasins)  
 Time: 07:59 Date: 04/29/1999

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	0100000000000000	NO	YES	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	YES
2	0103000000000000	NO	NO	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	YES
3	0103400000000000	NO	NO	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	YES

STREAM NAMES

Basin: DESCHUTES  
 Water Availability Subbasin: 0103400000000000 (and Nested Subbasins)  
 Time: 07:59 Date: 04/29/1999

WAB #	Stream Name	Tributary to
0100000000000000	DESCHUTES R @ mouth	COLUMBIA R
0103000000000000	DESCHUTES R ab EAGLE CR	COLUMBIA R
0103400000000000	DESCHUTES R ab SHITIKE CR @	PECOLUMBIA R

LIMITING WATER AVAILABILITY SUBBASINS

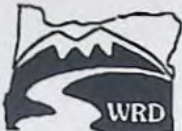
Water Availability Subbasin: 0103400000000000  
 Basin: DESCHUTES Exceedance Level: 80  
 Time: 07:59 Date: 04/29/1999

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-852.0
2	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-683.0
3	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-454.0
4	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	YES	252.0
5	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-9.8
6	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-432.0
7	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-993.0
8	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-572.0
9	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-632.0
10	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-519.0
11	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-529.0
12	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-1049.0
Stor	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	YES	155000.0

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WATER RESOURCE DEPT  
 SALEM, OREGON



State of Oregon  
Water Resources Department  
158 12th Street NE  
Salem, OR 97310  
(503)378-8455

# Short Term Water Right Lease Agreement

(e)

## For Leases of Existing Water Rights for Instream Use

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." If you need additional space to answer any of the questions, attach a separate sheet of writing paper and reference the section number and question.

### 1. APPLICANT INFORMATION

# DRAFT

This Lease Agreement is between:

**Lessor #1:**

(Name, address and telephone number)

Eagle Crest Partners, Limited

P.O. Box 1215 Redmond, OR 97756

(541) 923-0807

**Lessor #2,3, etc.:**

(Name, address and telephone number)

Swalley Irrigation District

64697 Cook Ave. Tumalo, OR

(541) 388-0658

The water right to be leased is located in Deschutes (County)

**Lessee:**

(Name, address and telephone number)

**Trustee:**

Oregon Water Resources Department

158 12th Street. NE

Salem OR 97310

(503)378-8455

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SALEM, OREGON

### SECTION I

1.1 Lessor #1 is the owner, or authorized agent for owner (Exhibit A), of property highlighted in Exhibit B.

1.2 Lessor #2 is the (Check one) [If Agreement includes multiple lessors, complete same for each additional party.]:

- Official representative of the Swalley Irrigation District, the irrigation district which conveys water to the subject water rights.
- Owner, or authorized agent for owner, of the storage facility which is the source of the subject water rights.
- Another party with an interest in the subject water rights representing

1.3 Exhibit C contains copies of all certificated, decreed or permitted rights attached to the property in Exhibit B. Those rights are listed below as follows [Use additional sheet, if necessary]:

Certificate No. 29054 Permit No. \_\_\_\_\_  
 Certificate No. 29056 Permit No. \_\_\_\_\_  
 Page No. 158 & 395 Decree Vol. 16 Order Record Water Resources  
 Page No. \_\_\_\_\_ Decree \_\_\_\_\_ Director

1.4 **Subject Water Rights.** Lessor proposes to lease all/a portion of the water rights listed in 1.3, above.

The right(s) to be leased are further described as follows:

Certificate / ~~Permit~~ No.: 29054 and 29056  
 Priority date: 09-01-1899 Type of use: Irrigation, Municipal Domestic ar  
 Place of use: Reference the attached exhibit Industrial  
 (If original use is irrigation, include map of irrigated lands in Exhibit D.)  
 Number of acres, if for irrigation 21  
 Acre feet of storage: N/A  
 Rate: .012 to .030 <sup>cfs</sup> / AC Duty: 9.56 Ac-Ft/Ac-Year Including a 43% trans  
 Season of Use: April 1 thru November 1 mission loss.  
 Point(s) of Diversion (POD): SE1/4 NE1/4 Sec29 T17S R12E  
 Conditions or other limitations, if any: Reference the attached order approving  
an additional point of diversion.

1.5 **Validity of Rights.** Lessor #1 attests that the subject water rights are legally valid by having been beneficially used according to the terms of the right or permit. If the right is for irrigation, beneficial must have occurred in the last five years on all lands indicated in Exhibit D.

1.6 **Lease.** All Lessors agree to lease the water rights listed in 1.4 for instream use for the term of this Agreement through Lessee to Trustee, the Oregon Water Resources Department, pursuant to the provisions of ORS 537.348(2) and OAR 690-77-0077.

1.7 **Suspension of original use.** During the period of the lease, the owner agrees to suspend use of water allowed under the subject water rights and under any water right that is supplemental to the subject water rights.

1.8 **Water use reporting.** The Trustee agrees to fulfill legal obligations related to water use reporting.

**SECTION II**

2.1 **Public Use.** The public use served by the amount, timing and location of the instream use provided for under this lease is (Select one):

Mitigation of a deficiency in the water supply for an existing instream water right or minimum streamflow located \_\_\_\_\_

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SALEM, OREGON

- Mitigation of a deficiency in water supply identified in an application for an instream water right or Diack flow located \_\_\_\_\_.
- A specific use or need identified by DEQ, Parks or ODFW and further described in Exhibit E.
- Provided by evidence contained in Exhibit E, such as a signed statement by Lessee, or other party, explaining how the lease would benefit recreation, scenic attraction, aquatic and fish life, wildlife habitat and ecological values, pollution abatement, navigation or other public uses.

**2.2 Instream use created by lease.** The instream use to be created is described as follows:

Deschutes River/Creek  
 Tributary to Columbia in the Deschutes Basin.  
 Location Deschutes River - between the City of Bend and the mouth  
 [Identify applicable points or reaches of instream use by river mile, description or map.]  
 Priority date: September 1, 1899  
 Use: Described in Section 2.1, above  
 Total volume: +/-115 Ac-Ft  
 Rate in cfs: .012 to .030 cfs/ac  
 Period of use: April 1 thru November 1  
 Conditions to prevent or mitigate injury, if any: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**2.3 Term of lease.** This Lease shall commence on \_\_\_\_\_ (not before execution by the parties) and continue through the following two years.

**2.4 Compensation.** The Lessor has agreed to lease subject water right for the sum of \$1.00, other valuable considerations and for the benefit of the state of Oregon.

**2.5 Flow protection.** The Trustee will regulate use of water from the source, subject to prior appropriation and the agency enforcement guidance, to assure the water is delivered to the point of diversion, and through the reach past junior downstream users, so long as flow is sufficient to meet the demand under priority date of the new instream use (see Section 2.2). No party is required to continuously measure the flow of the waterway described in Section 2.2.

**Optional Provisions**

**2.6 Additional monitoring.** Lessor/Lessee intends to manage and participate in the protection of the instream use by: (Describe plans)

\_\_\_\_\_  
 \_\_\_\_\_

**2.7 Modification or termination provisions.** (Describe any such provisions)

\_\_\_\_\_  
 \_\_\_\_\_



Oregon Water Resources Department

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 instruction booklet when completing your application. Thank you.

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1. Applicant Information

NOV 02 1998

A. Individuals

WATER RESOURCES DEPT

SALEM, OREGON

(If more than one person is applying, please attach a sheet providing the information below for each person applying.)

Name: \_\_\_\_\_  
Last First MI

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: Eagle Crest, Inc.

Name and title of person applying: William D. Lyche

Mailing address of organization: P.O. Box 1215

Redmond OR 97756  
City State Zip

Phone: (541) 548-9374  
Day Evening

\*Fax: (541) 923-0881 \*E-Mail address: \_\_\_\_\_

\*Optional information

For Department Use

App. No. G14857 Permit No. \_\_\_\_\_ Date 11/2/98

## 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 in the instruction booklet):

quasimunicipal

- 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, attach Form M
- If your proposed use is commercial/industrial or quasi-municipal, attach Form Q

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### 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, and 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 Annual Amount	Production Rate of the Well in gpm
#1	ground water	quasimunicipal	311,000	780
NOTE:	Flows may be increased to 1500 gpm for fire protection.			

### C. Season of Use

Indicate the time of year you propose to use the water (for seasonal uses like irrigation give dates when water use would begin and end):

year round

### D. Acreage

If you will be applying water to land, please give the total number of acres where water will be applied or used:

40 +/- on proposed lots. Landscape irrigation and other irrigation usual and ordinary to municipalities.

5. Water Management

A. Diversion

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

Pump (give horsepower and pump type) Vertical turbine - 250 hp

Other means (describe) \_\_\_\_\_

B. Transport

How will you transport water to your place of use?

Ditch, 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(s) 10" +/- Length 61,000 lf of pipe (estimated throughout the project)

Other (describe) \_\_\_\_\_

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SALEM, OREGON

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

In-line storage (tank or pond)  Direct pipe from source  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.

Pipe to transport and sprinkler irrigation will be used to prevent loses common to ditch and flood irrigation methods.

Water meters to be provided at residences.

6. Project Schedule

Proposed date construction will begin 1/2000 :

Proposed date construction will be completed 4/2000 :

Proposed date beneficial water use will begin 4/2000 :

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.*

The applicant is requesting a quasimunicipal permit to supply water to the development for domestic use, construction watering, reclamation, landscape irrigation, water feature (aesthetic) makeup and other ancillary uses usual and ordinary to a municipal supply system.

Signature

By my signature below I confirm that I understand:

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WATER RESOURCES DEPT.  
PORTLAND, OREGON

- 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 is 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 statements made and information provided in this application are true and correct to the best of my knowledge:

*William D. Lyche*  
Signature of Applicant

Date

Signature of Co-applicant

Date

Before submitting this application, have you:

- Answered every question?
- Included a Land Use Information Form or receipt stub signed by a local official?
- Attached a legible map that meets all the necessary criteria?
- Included a check made out to WRD for at least the amount of the application fee?

Last revision: October 31, 1996

2. Location and Source

The Department cannot process your application without accurate information showing the source of water and location of water use. You must attach a map to 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 page 3 in the instruction booklet for detailed map specifications. In addition, please provide the following information:

**A. County**

In what county is the use proposed? Deschutes

In what county is the appropriation point proposed? Deschutes

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**B. River Basin**

(See instruction booklet pg.3 for list): Deschutes

WATER RESOURCES DEPT.  
SALMON, OREGON

**C. Property Ownership**

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

Yes (Skip to section 3 "Groundwater Development.")

No Please check the appropriate box below, and on a separate sheet of paper list the names and addresses of all affected landowners.\*\*

I have a recorded easement or written authorization permitting access.

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

\*\*If more than 25 landowners are involved, a list is not required. See page 4 in the instruction booklet for more details.

3. Groundwater Development

A. Number of wells: 1 B. Name of nearest surface water body Deschutes River

C. Distance from well(s) to nearest stream or lake: 1) 1.2 miles from Deschutes River

2) \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_

D. If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head. 1) \_\_\_\_\_

2) : \_\_\_\_\_ 3) \_\_\_\_\_ 4) \_\_\_\_\_

**E. 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 question F in this section of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

1. Wells will be constructed by: a State qualified contractor

Address: N/A

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Completion date: 1/2000

WATER RESOURCES DEPT.  
SALEM, OREGON

2. 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	Estimated depth to water	Est. depth to water-bearing stratum	Type of access port or measuring device	Total well depth
#1	17"	14" .250 gauge steel	800'	500-750±	50'±	500±	540	air tube probe conduct	800'
		NOTE: The well is not constructed. This information is based upon a similar nearby well: see attached							

**F. Artesian Flows**

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

N/A



# Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

Commerce Building

158 12th Street NE

Salem, OR 97310-0210

(503) 378-3739

FAX (503) 378-8130

**THIS IS AN INITIAL REVIEW (IR) OF APPLICATION G-14857.**

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

May 21, 1999

WILLIAM D. LYCHE  
EAGLE CREST INC.  
PO BOX 1215  
REDMOND, OREGON 97756

Reference: File G-14857

Dear Applicant:

This document is the Department's preliminary analysis of your water use request called an Initial Review (IR). The purpose of the IR is to make a "first-cut" evaluation of the application, specifically focusing on whether the use is restricted by statute or rule and whether water is available for the proposed use. The IR is also meant to highlight issues and determinations that may preclude approval of the use or that may lead to restrictions.

This letter is to inform you of the *unfavorable* preliminary analysis of your water use application. The unfavorable analysis stems from the Department's determination that the proposed well is hydraulically connected to the Deschutes River and has the potential for substantial interference. When the Department determines that a potential for substantial interference with surface water exists, it is required to not only evaluate your application with respect to ground water laws and rules but it is also required to consider laws and rules governing the (hydraulically connected) surface water source.

As you will see from the analysis below, the Department's determination that your well is connected to the Deschutes River presents a number of obstacles to application approval. I urge you to contact Rebecca Geisen at (800) 624-3199 ext. 241 or Bob Main at (541) 388-6669 to find out more about a working group that has been formed in the Deschutes Basin to address this situation.

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 **Tuesday, June 4, 1999**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Request an Administrative Hold

At the applicant's request, the Department can automatically place the application on-hold for 180 days. An administrative hold for more than 180 days may be granted upon a finding by the Director that the request is reasonable and necessary. To request an administrative hold simply notify the Department in writing by July 8, 1999. Please be sure to specify how long you would like your application to be on hold

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.

Finally, in the event a permit is issued, the following standard conditions will likely apply:

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. 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(s) 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.



App. G-14857

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WATER RESOURCES DEPT.  
SALEM, OREGON

July 24, 2000

Mr. Bob Main  
Oregon Water Resources Department  
1340 NW Wall Street, Suite 100  
Bend, OR 97701

Mr. Dwight French  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310

**RE: Eagle Crest I  
Well #1  
Groundwater Withdrawal Mitigation  
OWRD Certificate No. 52191  
WHP File No. 2895-0103**

Dear Bob and Dwight:

The certificate of water right for Well #1 at Eagle Crest I is attached. Eagle Crest is proposing to abandon the Well #1 right, in exchange for groundwater withdrawal mitigation. Your review, comments, and recommendations will be greatly appreciated.

Well #1 was constructed in the early 1970s for agricultural irrigation. When the original Eagle Crest Resort was developed, the water rights were utilized for golf course and grounds irrigation. The irrigation rights were used in conjunction with quasimunicipal groundwater rights and other irrigation rights for the resort property. Today, Eagle Crest can utilize other water rights, allowing abandonment of Well 1 irrigation rights for a groundwater withdrawal mitigation.

A groundwater withdrawal mitigation plan was recently approved for Eagle Crest III. The mitigation plan and the associated permit (Permit G-13819), stipulate measurement of actual water consumption and increasing the mitigation if necessary to match actual withdrawals. In addition, Eagle Crest has multiple water rights that may ultimately require groundwater withdrawal mitigation. Eagle Crest may also have some interest in selling mitigation to other parties.

The attached certificate of water right describes the irrigation of 131.5 acres, with the standard duty of 1/80 cfs per acre, and a diversion not to exceed 3 acre feet per acre each year. The Well #1 water right represents an annual volume of 394.5 acre feet. Eagle Crest is respectfully requesting your approval to abandon the Well #1 water right in exchange for 394.5 acre feet per year of groundwater withdrawal mitigation.

Eagle Crest prefers to establish the mitigation value for Well #1 prior to determining the exact applications of the mitigation. Eagle Crest believes flexibility in the application of groundwater withdrawal mitigations is appropriate, because work is on-going on resolution of groundwater withdrawals in the Deschutes Basin.



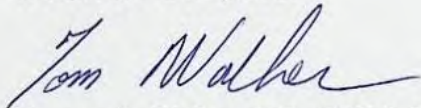
The Oregon Water Resources Department has determined that groundwater withdrawals in the Deschutes Basin could affect the discharge of groundwater to the surface water system. The groundwater discharge to surface water is most pronounced in the vicinity of Lake Billy Chinook. Because Eagle Crest is up-stream and up gradient from Lake Billy Chinook, the abandonment of a groundwater right should directly benefit surface water flows in the downstream reach of the Deschutes River. Abandonment of the irrigation water right is therefore an appropriate mitigation for an equal groundwater withdrawal in the middle or upper reaches of the Deschutes River.

We recognize our request to establish mitigation value may be somewhat unique, but so is the opportunity to create "like kind" mitigation. We need to be creative and innovative as we consider means to improve flow conditions in the Deschutes River. Your assistance in creating groundwater withdrawal mitigation should benefit not only Eagle Crest, but all users of the Deschutes River Basin.

Thank you for your review, assistance, comments, and recommendations. I look forward to your response.

Very Truly Yours,

**W&H PACIFIC, INC.**



Thomas A. Walker, P.E., C.W.R.E.  
Vice President

CC: Alan VanVliet

STATE OF OREGON

COUNTY OF \_\_\_\_\_ DESCHUTES

CERTIFICATE OF WATER RIGHT

RECEIVED

JUL 26 2000

WATER RESOURCES DEPT.  
SALEM, OREGON

This Is to Certify, That FRANK N. and GEORGANN A. CHASE

of 1004 Cline Falls Road, Redmond, State of Oregon 97756, has made proof to the satisfaction of the Water Resources Director, of a right to the use of the waters of a well

a tributary of Deschutes River for the purpose of irrigation of 131.5 acres

under Permit No. G-6284 and that said right to the use of said waters has been perfected in accordance with the laws of Oregon; that the priority of the right hereby confirmed dates from December 19, 1974 that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to an amount actually beneficially used for said purposes, and shall not exceed 1.60 cubic feet per second

or its equivalent in case of rotation, measured at the point of diversion from the well. The well is located in the SW 1/4 SE 1/4, Section 14, T15S, R12E, WM; 150 feet North and 1,640 feet West from SE Corner Section 14.

The amount of water used for irrigation, together with the amount secured under any other right existing for the same lands, shall be limited to one-eightieth of one cubic foot per second per acre, or its equivalent for each acre irrigated and shall be further limited to a diversion of not to exceed 3 acre-feet per acre for each acre irrigated during the irrigation season of each year

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

A description of the place of use under the right hereby confirmed, and to which such right is appurtenant, is as follows:

- ✓ 27.7 acres SW 1/4 SE 1/4
  - ✓ 37.4 acres SE 1/4 SE 1/4
- Section 14

- ✓ 25.4 acres NE 1/4 NE 1/4
  - ✓ 20.7 acres NW 1/4 NE 1/4
  - ✓ 1.1 acres SE 1/4 NE 1/4
  - ✓ 19.2 acres NE 1/4 NW 1/4
- Section 23

Township 15 South, Range 12 East, WM

The right to the use of the water for the purposes aforesaid is restricted to the lands or place of use herein described.

WITNESS the signature of the Water Resources Director, affixed

this date. August 14, 1984

*William H. Young*  
Water Resources Director

Recorded in State Record of Water Right Certificates, Volume 47, page 52191

3094C

Basin 5, Vol. 1 Deschutes River Wells

Supersedes

STATE OF OREGON  
COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE CREST INC.  
WILLIAM D. LYCHE  
PO BOX 1215  
REDMOND, OREGON 97756

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

APPLICATION FILE NUMBER: G-14857

SOURCE OF WATER: A WELL IN DESCHUTES RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USE

MAXIMUM RATE: 3.34 CUBIC FOOT PER SECOND, further limited to a maximum diversion of 252 acre-feet each year and shall result in consumption of no more than 115 acre-feet each year, once sewage contribution is subtracted from the amount diverted, unless the mitigation plan is modified and approved by the department as described below.

If the reporting, as required below, demonstrates the mitigation plan is not sufficient to mitigate for the amount of water actually consumed, the use will be further restricted to limit the total consumed water to 115 acre-feet, or the department may approve an additional and equivalent water right to be leased to instream use, to maintain an acre-foot for acre-foot balance between the amount of water consumed to the amount of water provided to instream use. An equivalent water right must, at a minimum, be from a water right with a diversion point at or near the diversion authorized by the lease of certificate 74145.

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 2, 1998

POINT OF DIVERSION LOCATION: NE 1/4 NE 1/4, SECTION 16, T15S, R12E, W.M.; 150 FEET SOUTH AND 150 FEET WEST FROM THE NE CORNER SECTION 16  
THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE 1/4  
NW 1/4  
SW 1/4  
SECTION 16  
TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

## Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install meters, or other suitable measuring devices as approved by the Director, *at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured.* The permittee shall maintain the meters or measuring devices in good working order, shall keep a complete record of the amount of water used and discharged 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 meters or measuring devices; provided however, where the meters or measuring devices are located within a private structure, the watermaster shall request access upon reasonable notice.

This permit will expire in 2 years from permit issuance unless the 2 year lease of the water right authorized under certificate 74145 to instream purposes is replaced by a permanent transfer of water right certificate 74145, or an equivalent water right as determined by the Department, to instream use.

Within 1 year of permit issuance, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The Director may approve an extension of this timeline to complete the required Water Management Conservation Plan.

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(s) 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.

### STANDARD CONDITIONS

The wells 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.

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

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.

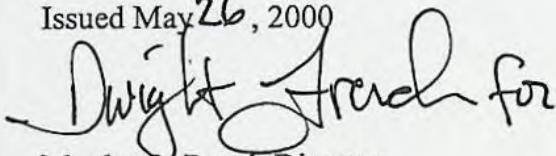
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

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

Actual construction of the well shall begin by May<sup>26</sup>, 2001. Complete application of the water to the use shall be made on or before October 1, 2004. 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 May<sup>26</sup>, 2000



Martha O. Pagel, Director  
Water Resources Department

NOTE: Pursuant to ORS 537.330, in any transaction for the conveyance of real estate that includes any portion of the lands described in this permit, the seller of the real estate shall, upon accepting an offer to purchase that real estate, also inform the purchaser in writing whether any permit, transfer approval order, or certificate evidencing the water right is available and that the seller will deliver any permit, transfer approval order or certificate to the purchaser at closing, if the permit, transfer approval order or certificate is available.

Application G-14857  
Basin 5

Water Resources Department  
Volume 1 DESCHUTES R MISC  
MGMT. CODE 7BG 7BR 7JG 7JR

PERMIT G-13819  
District 11

Form C (690-9-77)

IMPORTANT—This form is a notice to the Water Resources Director that permittee is ready to make final proof to the extent to which the water has actually been applied to the intended use under the terms of the permit. Permittee is cautioned that Certificate of Water Right will be issued based on the extent of the quantity and use as determined by the final proof inspection and survey which will be made in response to the filing of this Form C.

NOTE: In the case of an irrigation permit, this Form C should not be mailed to the Water Resources Department until all of the land described in the permit, which it is intended to irrigate under this permit at any time, has actually been irrigated.

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when all of the water has been applied.

Application No. ....

NOTICE OF COMPLETE APPLICATION OF WATER TO A BENEFICIAL USE

I, ....., the holder of Permit No. .... to appropriate the public waters of the state of Oregon, completely applied the waters to a beneficial use in accordance with the terms of said permit, on the ..... day of ....., 19 .....

Remarks: .....

IN WITNESS WHEREOF, I have hereunto set my hand this ..... day of ....., 19 .....

(Signature of Applicant)

(Address)

RECEIVED

Form B (690-9-77)

Application No. JUN 07 2001

NOTICE OF COMPLETION OF CONSTRUCTION

WATER RESOURCES DEPT. SALEM, OREGON

I, ....., the holder of Permit No. .... to appropriate the public waters of the state of Oregon, completed the construction of the works described therein on the ..... day of ....., 19 .....

Remarks: .....

If the works have less capacity than described in the permit, or you have definitely abandoned part of the proposed development, you should so state in order that our records may not be unnecessarily encumbered.

IN WITNESS WHEREOF, I have hereunto set my hand this ..... day of ....., 19 .....

(Signature of Applicant)

(Address)

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is completed.

Form A (690-9-77)

Application No. G - 14857

NOTICE OF BEGINNING OF CONSTRUCTION

I, Eagle Crest Inc., the holder of Permit No. G-13819 to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 21st day of May, 19 2001

Remarks: Bore hole construction, surface casing installation, and

placement of a surface seal were initiated on May 21, 2001.

The appropriator must state the manner of beginning of construction, the amount of work completed and the type of equipment required for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction as authorized by your permit.

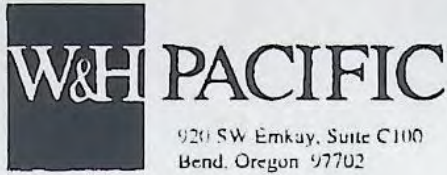
IN WITNESS WHEREOF, I have hereunto set my hand this 5th day of June 2001

Alan Van Vliet, Eagle Crest, Inc. (Signature of Applicant)

P.O. Box 1215, Redmond OR 97756 (Address)

Fill out, detach and mail to the Water Resources Department, Salem, OR 97310, when construction work is begun.

*Creative Solutions ... Superior Service*



~~FAX~~

To: Water Right Permit Section  
 Company: Oregon Water Resources Department  
 Address: 158 12<sup>th</sup> Street NE  
 City/State: Salem, OR 97310  
 Phone:  
 Fax:

Date: June 5, 2001  
 Project Number: 816567.009  
 Project Name: Eagle Crest Inc  
 Re: Water Right Permit G - 13819  
 Application G - 14857

From: Thomas A. Walker, P.E., C.W.R.E.  
 Phone: (541) 388-4255  
 Fax: (541) 388-4229

**Confidentiality Notice:** This facsimile is intended only for the use of the individual and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that the unauthorized dissemination, distribution or copying of this communication, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone (collect). Thank you.

**We are sending:**

- Attached
- Facsimile
- # Of Pages Including Cover

**These Are Transmitted:**

- For Your Info/File
- As Requested
- For Review & Comment

**Copied To:**

Alan VanVliet

Copies	Description
1	Exccuted Form A Notice of Beginning of Construction

Comments:

Civil and Structural Engineering ♦ Landscape Architecture  
 Planning ♦ Surveying and Mapping

Washington ♦ Oregon ♦ Idaho

**RECEIVED**

JUN 07 2001

WATER RESOURCES DEPT  
SALEM, OREGON



EAGLE CREST  
RESORT

P.O. Box 1215  
Redmond, OR 97756

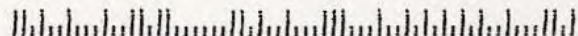
ADDRESS SERVICE REQUESTED



WATER RIGHT PERMIT SECTION  
OREGON WATER RESOURCES  
DEPARTMENT  
158 12TH STREET NE  
SALEM, OR 97310

14857  
JM

97301X4172



OREGON WATER RESOURCES DEPARTMENT  
ADMINISTRATIVE RULES  
CHAPTER 690  
DIVISION 505  
DESCHUTES BASIN PROGRAM

**Upper Deschutes Basin**

690-505-001

(1) Classifications

(a) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Upper Deschutes River Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife and fish life uses and the waters of the Upper Deschutes River Basin are hereby so classified with the following exception:

The maximum economic development of this state, the attainment of the highest and best use of the waters of the natural lakes of the Upper Deschutes River Basin, except for Crescent Lake, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7 1/2 theoretical horsepower, recreation, wildlife and fish life uses and the waters of the natural lakes, Upper Deschutes River Basin, except for Crescent Lake, are hereby so classified.

(b) Applications for the use of the waters of the Upper Deschutes River Basin shall not be accepted by any state agency for any other use and the granting of applications for such other uses is declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(c) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed and operated in conformity with applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Minimum Perennial Streamflows

(a) To support aquatic life and minimize pollution, in accordance with Section 3, Chapter 796, Oregon Laws, 1983, no appropriation of water shall be made or granted by any state agency or public corporation of the state for waters of the Upper Deschutes River and tributaries when flows are below the levels specified in Table 1. This limitation shall not apply to:

(A) Human and livestock consumption.

(B) Water legally released from storage.

(b) Attainment of the specified flow levels during some portions of the year will require development of water storage or implementation of other measures to augment flows.

(3) Water Quality

Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on the condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

**Middle Deschutes River Basin**

690-505-002

(1) Classifications

(a) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Middle Deschutes River Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife and fish life uses and the waters of the Middle Deschutes River Basin are hereby so classified with the following exceptions:

(A) OAR 690-505-006, Lower Main Stem Deschutes River, adopted April 3, 1964, as modified by the Water Policy Review Board.

(B) The maximum economic development of this state, the attainment of the highest and best use of the waters of the main stem, Metolius River, above river mile 13.0, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or non-commercial garden not to exceed one-half acre in area, power development, recreation, wildlife and fish life uses and the waters of the main stem, Metolius River, above river mile 13.0, are hereby so classified.

(C) Further, no out-of-basin diversions of the waters of the mainstem Metolius River, above river mile 13.0, shall be permitted for any use.

(D) No further appropriations except for domestic or livestock uses shall be permitted for waters of the mainstem Deschutes River, from the head of Lake Billy Chinook near river mile 120 to the North Canal Dam near river mile 165.

(E) The maximum economic development of this state, the attainment of the highest and best use of the waters of the natural lakes of the Middle Deschutes River Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7 1/2 theoretical horsepower, recreation, wildlife and fish life uses.

(b) Applications for the use of the waters of the Middle Deschutes River Basin shall not be accepted by any state agency for any other use and the granting of applications for such other uses is declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(c) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Minimum Perennial Streamflows

For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses shall be made or granted by any state agency or public corporation of the state for the waters of Lake Creek or its tributaries above the confluence of Lake Creek with the Metolius River for flows of Lake Creek below 20 cubic feet per second measured at the mouth of Lake Creek except that this limitation shall not apply to waters legally stored or legally released from storage (priority date - May 24, 1962).

(3) Water Quality

Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

**Lower Deschutes River Basin**

690-505-003

(1) Classifications

(a) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Lower Deschutes River Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife and fish life uses and the waters of the Lower Deschutes River Basin are hereby so classified with the following exceptions:

(A) OAR 690-505-006, Lower Main Stem Deschutes River, adopted April 3, 1964, as modified by the Water Policy Review Board.

(B) The waters of Boulder Lake in Hood River and Wasco Counties are classified only for domestic and livestock uses; power development not to exceed 7-1/2 theoretical horsepower; recreation, wildlife and fish life uses; and irrigation not to exceed 100 acre-feet annually from water stored in the lake.

(C) The maximum economic development of this state, the attainment of the highest and best use of the waters of the other natural lakes of the Lower Deschutes River Basin, and the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, power development not to exceed 7-1/2 theoretical horsepower, recreation, wildlife, and fish life uses and the waters of the natural lakes of the Lower Deschutes River Basin are hereby so classified.

(b) Applications for the use of the waters of the Lower Deschutes River Basin shall not be accepted by any state agency for any other use and the granting of applications for such other uses is declared to be prejudicial to the public interest and the granting of applications for such uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(c) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give cognizance to the multiple-purpose concept.

## (2) Minimum Perennial Streamflows

For the purpose of maintaining a minimum perennial streamflow sufficient to support aquatic life, no appropriations of water except for domestic or livestock uses shall be made or granted by any state agency or public corporation of the state for the waters of the White River or its tributaries above the confluence of White River with the Deschutes River for flows of the White River below the specified flows in Table 2, except that this limitation shall not apply to waters legally stored or legally released from storage.

## (3) Water Quality

Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

## Upper Crooked River Basin

690-505-004

### (1) Classifications

(a) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Deschutes - Upper Crooked River Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife and fish life uses and the waters of the Deschutes - Upper Crooked River Basin are hereby so classified.

(b) Applications for the use of the waters of the Deschutes - Upper Crooked River Basin shall not be accepted by any state agency for any other use and the granting of applications for such other uses is declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(c) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

## (2) Water Quality

Rights to use of water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

## Lower Crooked River Basin

690-505-005

### (1) Classifications

(a) The maximum economic development of this state, the attainment of the highest and best use of the waters of the Deschutes - Lower Crooked River Basin, and the attainment of an integrated and coordinated program for the benefit of the state as a whole will be furthered through utilization of the aforementioned waters only for domestic, livestock, municipal, irrigation, power development, industrial, mining, recreation, wildlife and fish life uses and the waters of the Deschutes - Lower Crooked River Basin are hereby so classified with the following exceptions:

(A) OAR 690-505-006, Lower Main Stem Deschutes River, adopted April 3, 1964, as modified by the Water Policy Review Board.

(B) No further appropriations of water except for domestic or livestock uses shall be made or granted by any state agency for the waters of Ochoco Creek and its tributaries.

(b) Applications for the use of the waters of the Deschutes - Lower Crooked River Basin shall not be accepted by any state agency for any other use and the granting of applications for such uses is declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated and coordinated program for the use and control of the water resources of the state.

(c) Structures or works for the utilization of the water in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Water Quality

Rights to use water for industrial or mining purposes granted by any state agency shall be issued only on condition that any effluents or return flows from such uses shall not interfere with other beneficial uses of water.

**Note:** The Upper Deschutes River, Middle Deschutes River, Lower Deschutes River, Upper Crooked River and Lower Crooked River Basins are delineated on State Water Resources Board Map, File 5.7014, available from the Water Resources Department.

**Lower Main Stem Deschutes River**

690-505-006

(1) Classifications

(a) The maximum beneficial use of that portion of the main stem of the Deschutes River from its confluence with the Columbia River to and including river mile 100.0 is for recreation, fish and wildlife purposes and no appropriations of water in this area shall be permitted except for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, recreation, fish and wildlife uses.

(b) The maximum economic development of the state and the attainment of the highest and best use of the waters of the lower main stem Deschutes River from river mile 100.0 to river mile 120.0 and the attainment of an integrated and balanced program for the benefit of the state as a whole will be achieved through utilization of the aforementioned waters for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, hydroelectric power, fish, wildlife, and recreation purposes and the aforementioned waters of the main stem Deschutes River are hereby so classified.

(c) The maximum economic development of this state and the attainment of the highest and best use of the waters of the lower main stem Crooked River from its confluence with the Deschutes River to river mile 6.5 and the waters of the main stem of the lower Metolius River from its confluence with the Deschutes River to river mile 13.0 will be attained through utilization of such waters for domestic, livestock, irrigation of lawn or noncommercial garden not to exceed one-half acre in area, hydroelectric power, fish, wildlife, and recreation purposes and the aforementioned waters of the lower main stem, Crooked River, and lower main stem, Metolius River, are hereby so classified.

(d) Applications for the use of such water shall not be accepted by any state agency for any other purpose and applications for such other purposes are declared to be prejudicial to the public interest and the granting of applications for such other uses would be contrary to the integrated, coordinated program for the use and control of the water resources of the state.

(e) Structures or works for the utilization of the waters in accordance with the aforementioned classifications are also declared to be prejudicial to the public interest unless planned, constructed, and operated in conformity with the applicable provisions of ORS 536.310 and any such structures or works are further declared to be prejudicial to the public interest which do not give proper cognizance to the multiple-purpose concept.

(2) Power Development

Water rights acquired for structures or works for the utilization of the waters for hydroelectric purposes shall be subordinate to all present and future upstream beneficial uses of water except for hydroelectric power.

**Note:** The main stem of the Deschutes River from its confluence with the Columbia River to river mile 120.0 is shown in USGS Water Supply Paper 344; the main stem of the Crooked River from its confluence with the Deschutes River to river mile 6.5 is shown on USGS Plans and Profiles, 1926; and the main stem of the Metolius River from its confluence with the Deschutes River to river mile 13.0 is shown in USGS Water Supply Paper 344.

Table 1  
Deschutes Basin  
Minimum Perennial Streamflows  
(cfs)

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Priority Date
Deschutes River - to be maintained from Wickiup Reservoir to the confluence of the Little Deschutes River	300	300	300	300	300	300	300	300	300	300	300	300	11-3-83
Deschutes River - to be maintained from Little Deschutes River to the confluence of Spring River	400	400	400	400	400	400	400	400	400	400	400	400	11-3-83
Deschutes River - to be maintained from Spring River to North Canal Dam at Bend	660	660	660	660	660	660	660	660	660	660	660	660	11-3-83

PRE-IR APPLICATION PROCESSING OUTLINE

Application File # G14857

MINIMUM REQUIREMENTS TO FILE

OAR 690-310-040

DATE

INITIAL

AKH  
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SURFACE AND GROUNDWATER APPLICATIONS

Name and mailing address of applicant

Source of water

Quantity of water

Map meeting requirements of OAR  
690-310-050

Nature of proposed use

Names and addresses of legal owners

Easement/authorization statement

Legal description of POD/POU

Description of works and conveyance

Information on waste/measurement, etc

Land use approved ✓ pending \_\_\_\_\_

Signature/title of applicant

Oath

Estimated capacity of pump

Primary permit or certificate number  
(if application is for supplemental)

Form M needed I \_\_\_\_\_ R \_\_\_\_\_

Examination fee \_\_\_\_\_ Recording

CWRE map for dam >10ft AND storage >9.2 AF  
(For standard reservoirs only)

ADDITIONAL FOR GROUNDWATER APPLICATIONS

Copy of well log (for existing wells)

Groundwater development

Well Characteristics

Rate of flow if no pumping required

HB 2376 Expedited Review Reservoir

Completed Application

Land use approved \_\_\_\_\_ pending \_\_\_\_\_

Map showing Township, Range, Section,  
quarter-quarter section and tax lot info

HB 2376 exam fee \$10 per acre-foot

SUPPORT SERVICES

Stamp contents with application number

Place label on file and calendar card

Acknowledgment post card to applicant

Route to Initial Review

WATER AVAILABILITY TABLE

Basin: DESCHUTES Exceedance Level: 80  
 Water Availability Subbasin: 0103400000000000 (and Nested Subbasins)  
 Time: 07:59 Date: 04/29/1999

Item #	W.A. Subbasin	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
1	0100000000000000	NO	YES	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	YES
2	0103000000000000	NO	NO	YES	YES	YES	YES	NO	NO	NO	NO	NO	NO	YES
3	0103400000000000	NO	NO	NO	YES	NO	NO	NO	NO	NO	NO	NO	NO	YES

STREAM NAMES

Basin: DESCHUTES  
 Water Availability Subbasin: 0103400000000000 (and Nested Subbasins)  
 Time: 07:59 Date: 04/29/1999

WAB #	Stream Name	Tributary to
0100000000000000	DESCHUTES R @ mouth	COLUMBIA R
0103000000000000	DESCHUTES R ab EAGLE CR	COLUMBIA R
0103400000000000	DESCHUTES R ab SHITIKE CR @	PECOLUMBIA R

LIMITING WATER AVAILABILITY SUBBASINS

Water Availability Subbasin: 0103400000000000  
 Basin: DESCHUTES Exceedance Level: 80  
 Time: 07:59 Date: 04/29/1999

Month	Limiting Subbasin	Stream Name	Water Available?	Net Water Available
1	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-852.0
2	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-683.0
3	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-454.0
4	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	YES	252.0
5	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-9.8
6	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-432.0
7	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-993.0
8	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-572.0
9	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-632.0
10	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-519.0
11	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-529.0
12	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	NO	-1049.0
Stor	0103400000000000	DESCHUTES R ab SHITIKE CR @ PE	YES	155000.0

DETAILED REPORT ON WATER AVAILABILITY

Basin: DESCHUTES  
 Stream: DESCHUTES R @ mouth  
 Water Availability Subbasin: 0100000000000000  
 Time: 07:59

Exceedance Level: 80  
 ID Number: 14103000  
 Date: 04/29/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	4970.00	640.00	4330.00	43.30	4287.00	4500.00	-213.00
2	5530.00	700.00	4830.00	45.00	4785.00	4500.00	285.00
3	6140.00	960.00	5180.00	66.00	5114.00	4500.00	614.00
4	6470.00	930.00	5540.00	69.90	5470.00	4000.00	1470.00
5	6220.00	1120.00	5100.00	39.90	5060.00	4000.00	1060.00
6	5560.00	1170.00	4390.00	82.60	4307.00	4000.00	307.00
7	4610.00	910.00	3700.00	82.80	3617.00	4000.00	-383.00
8	4320.00	820.00	3500.00	82.60	3417.40	3500.00	-82.60
9	4410.00	700.00	3710.00	82.30	3628.00	3800.00	-172.00
10	4520.00	760.00	3760.00	39.60	3720.40	3800.00	-79.60
11	4610.00	820.00	3790.00	39.80	3750.20	3800.00	-49.80
12	4820.00	750.00	4070.00	40.20	4030.00	4500.00	-470.00
Stor	4360000	616000	3740000	42800	3700000	2930000	769000

DETAILED REPORT OF ISWRs

Basin: DESCHUTES  
 Stream: DESCHUTES R @ mouth  
 Water Availability Subbasin: 0100000000000000  
 Time: 07:59

Date: 04/29/1999

----- ISWRs -----						
APP #	-90506A	70087A	71194A	0	0	RESULTANT
STATUS	Scenic WW	Cert.	Cert.			
1	4500.00	3000.00	4500.00	.00	.00	4500.00X
2	4500.00	3000.00	4500.00	.00	.00	4500.00X
3	4500.00	3500.00	4500.00	.00	.00	4500.00X
4	4000.00	3500.00	4000.00	.00	.00	4000.00X
5	4000.00	3500.00	4000.00	.00	.00	4000.00X
6	4000.00	3500.00	4000.00	.00	.00	4000.00X
7	4000.00	3500.00	4000.00	.00	.00	4000.00X
8	3500.00	3500.00	3500.00	.00	.00	3500.00X
9	3800.00	3500.00	3800.00	.00	.00	3800.00X
10	3800.00	3000.00	3800.00	.00	.00	3800.00X
11	3800.00	3000.00	3800.00	.00	.00	3800.00X
12	4500.00	3000.00	4500.00	.00	.00	4500.00X

DETAILED REPORT ON WATER AVAILABILITY

Basin: DESCHUTES  
 Stream: DESCHUTES R ab EAGLE CR  
 Water Availability Subbasin: 0103000000000000  
 Time: 07:59

Exceedance Level: 80  
 ID Number: 30530627  
 Date: 04/29/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	4700.00	625.00	4070.00	41.80	4028.00	4500.00	-472.00
2	5070.00	686.00	4380.00	43.10	4337.00	4500.00	-163.00
3	5640.00	931.00	4710.00	64.40	4646.00	4500.00	146.00
4	5920.00	884.00	5040.00	68.10	4972.00	4000.00	972.00
5	5710.00	1010.00	4700.00	39.90	4660.00	4000.00	660.00
6	5260.00	1050.00	4210.00	82.50	4127.00	4000.00	127.00
7	4420.00	822.00	3600.00	82.70	3517.00	4000.00	-483.00
8	4160.00	745.00	3410.00	82.50	3327.00	3500.00	-173.00
9	4260.00	638.00	3620.00	82.20	3538.00	3800.00	-262.00
10	4370.00	714.00	3660.00	39.40	3621.00	3800.00	-179.00
11	4460.00	814.00	3650.00	39.30	3611.00	3800.00	-189.00
12	4600.00	739.00	3860.00	39.30	3821.00	4500.00	-679.00
Stor	4030000	579000	3450000	42200	3410000	2930000	487000

DETAILED REPORT OF ISWRs

Basin: DESCHUTES  
 Stream: DESCHUTES R ab EAGLE CR  
 Water Availability Subbasin: 0103000000000000  
 Time: 07:59

Date: 04/29/1999

ISWRs						
APP #	-90506B	70087B	71194B	0	0	RESULTANT
STATUS	Scenic WW	Cert.	Cert.			
1	4500.00	3000.00	4500.00	.00	.00	4500.00X
2	4500.00	3000.00	4500.00	.00	.00	4500.00X
3	4500.00	3500.00	4500.00	.00	.00	4500.00X
4	4000.00	3500.00	4000.00	.00	.00	4000.00X
5	4000.00	3500.00	4000.00	.00	.00	4000.00X
6	4000.00	3500.00	4000.00	.00	.00	4000.00X
7	4000.00	3500.00	4000.00	.00	.00	4000.00X
8	3500.00	3500.00	3500.00	.00	.00	3500.00X
9	3800.00	3500.00	3800.00	.00	.00	3800.00X
10	3800.00	3000.00	3800.00	.00	.00	3800.00X
11	3800.00	3000.00	3800.00	.00	.00	3800.00X
12	4500.00	3000.00	4500.00	.00	.00	4500.00X

DETAILED REPORT ON WATER AVAILABILITY

Basin: DESCHUTES  
 Stream: DESCHUTES R ab SHITIKE CR @ PELTON DAM  
 Water Availability Subbasin: 0103400000000000  
 Time: 07:59

Exceedance Level: 80  
 ID Number: 30530643  
 Date: 04/29/1999

Month	Natural Stream Flow	CU + Stor Prior to 1/1/93	Net Min. Flow 1/1/93	CU + Stor After 1/1/93	Net Min. Flow Now	Instream Water Rights	Net Water Available
1	4310.00	620.00	3690.00	41.80	3648.00	4500.00	-852.00
2	4540.00	679.00	3860.00	43.10	3817.00	4500.00	-683.00
3	5040.00	933.00	4110.00	64.40	4046.00	4500.00	-454.00
4	5280.00	958.00	4320.00	68.00	4252.00	4000.00	252.00
5	5170.00	1140.00	4030.00	39.80	3990.17	4000.00	-9.83
6	4850.00	1200.00	3650.00	82.50	3568.00	4000.00	-432.00
7	4090.00	996.00	3090.00	82.60	3007.00	4000.00	-993.00
8	3880.00	865.00	3010.00	82.40	2928.00	3500.00	-572.00
9	3980.00	727.00	3250.00	82.20	3168.00	3800.00	-632.00
10	4070.00	755.00	3320.00	39.30	3281.00	3800.00	-519.00
11	4130.00	815.00	3310.00	39.30	3271.00	3800.00	-529.00
12	4230.00	737.00	3490.00	39.30	3451.00	4500.00	-1049.00
Stor	3590000	624000	2970000	42200	2930000	2930000	155000

DETAILED REPORT OF ISWRs

Basin: DESCHUTES  
 Stream: DESCHUTES R ab SHITIKE CR @ PELTON DAM  
 Water Availability Subbasin: 0103400000000000  
 Time: 07:59

Date: 04/29/1999

-----ISWRs-----							
APP #	-90506C	0	0	0	0	0	RESULTANT
STATUS	Scenic WW						
1	4500.00	.00	.00	.00	.00	.00	4500.00X
2	4500.00	.00	.00	.00	.00	.00	4500.00X
3	4500.00	.00	.00	.00	.00	.00	4500.00X
4	4000.00	.00	.00	.00	.00	.00	4000.00X
5	4000.00	.00	.00	.00	.00	.00	4000.00X
6	4000.00	.00	.00	.00	.00	.00	4000.00X
7	4000.00	.00	.00	.00	.00	.00	4000.00X
8	3500.00	.00	.00	.00	.00	.00	3500.00X
9	3800.00	.00	.00	.00	.00	.00	3800.00X
10	3800.00	.00	.00	.00	.00	.00	3800.00X
11	3800.00	.00	.00	.00	.00	.00	3800.00X
12	4500.00	.00	.00	.00	.00	.00	4500.00X



### Oregon Water Resources Department

## FORM Q FOR COMMERCIAL, INDUSTRIAL, AND QUASI-MUNICIPAL WATER USES

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NOV 02 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

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

Domestic, uses usual and ordinary to municipalities

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

2

cfs  gpm

3. Are there periods of the day, week, month, or year that the water will not be used?  
*(e.g. weekends the plant is closed)*

No  Yes If so, when?

4. 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? Year round

5. 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? non-irrigation season

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

WELL IDENTIFICATION NUMBER

(START CARD) # 36697

(1) OWNER: Well Number: PW #1  
Name Eagle Ridge Development Corporation  
Address P.O. Box 1215  
City Redmond State OR Zip 97756

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

(3) DRILL METHOD  
 Rotary Air  Rotary Mud  Cable  
 Other

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

(5) BORE HOLE CONSTRUCTION:  
Special Construction approval Yes No Depth of Completed Well 800 ft.  
Explosives used  Yes  No Type Amount

HOLE SEAL Amount  
Diameter From To Material From To sacks or pounds  
24 0 47 800 cement 0 47 80 sacks  
17 47 800

How was seal placed: Method  A  B  C  D  E  
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: 18" +1 47 .250      
Liner: 14" +2 800 .375

Final location of shaft 800'

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

From To Slot size Number Diameter Tele/pipe size Casing Liner  
510 790 3/8 8000 14"

(8) WELL TESTS: Minimum testing time is 1 hour  
 Pump  Bailer  Air  Flowing Artesian  
Yield gal/min Drawdown Drill stem at Time  
100 (est.) 750 1 hr.

Temperature of water 92° Depth Artesian Flow Found  
Was a water analysis done?  Yes By whom  
Did any strata contain water not suitable for intended use?  Too little  
 Salty  Muddy  Odor  Colored  Other  
Depth of strata:

(9) LOCATION OF WELL by legal description:  
County Deschutes Latitude Longitude  
Township 15 S Nor S. Range 12 E E or W. WM.  
Section 15 SW 1/4 SE 1/4  
Tax Lot 1500 Lot Block Subdivision  
Street Address of Well (or nearest address) N/A

(10) STATIC WATER LEVEL:  
Borehole (ft.) 518 ft. below land surface Date 2/20/92  
Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:  
Depth at which water was first found 540

From	To	Estimated Flow Rate	SWL
540	800	800	518

(12) WELL LOG: Ground elevation

Material	From	To	SWL
Sand & cobbles	1	4	
Broken lava red and brown	4	40	
Basalt gray hard	40	55	
Lava cinders red	55	68	
Lava brown	68	80	
Basalt gray and brown hard	80	85	
Basalt softer	85	93	
Lava red & brown broken soft	93	111	
Basalt gray hard	111	157	
Basalt gray softer w/ red cinder	157	162	
Lava red	162	185	
Lava brown w/sandstone	185	299	
Lava dark brown w/pumice	299	330	
Andacite brown hard	330	375	
Andacite gray	375	400	
Andacite Gray & brown hard	400	469	
Andacite gray softer	469	502	
Andacite hard brown	502	524	
Andacite light brown softer	524	568	
Rock black and red	568	600	
Andacite brown hard	600	608	
Red cinder	608	612	
Andacite brown hard	612	620	

Date started 1/20/92 Completed 2/20/92

(unbonded) Water Well Constructor Certification:  
I certify that the work performed on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my best knowledge and belief.  
Signed [Signature] WWC Number 1358 Date 3/4/92

(bonded) Water Well Constructor Certification:  
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. all work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.  
Signed [Signature] WWC Number 723 Date 3/4/92

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

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

Applicant's Name: Eagle Crest, Inc. representing the Owner  
 Address: P.O. Box 1215  
 City: Redmond State: OR Zip: 97756 Day Phone: (541) 548-9374

Please provide information as requested below for all tax lots on or through which water will be diverted or used. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
TL 151200	0004800			
	Destination Resort		XX	XX

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 WATER RESOURCES DEPT.  
 SALEM, OREGON

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

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

**For Local Government Use Only**

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

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

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

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

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily
<u>M-95-1 and CU-98-78</u>		X		

(over)

**Receipt for Request for Land Use Information**

WRD Applicant Name: \_\_\_\_\_

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

City or County: \_\_\_\_\_

Staff Contact: \_\_\_\_\_ Phone: \_\_\_\_\_

Signature: \_\_\_\_\_ Date of Information Request: \_\_\_\_\_

DESCHUTES COUNTY  
PLANNING DIVISION

(For Local Use Continued)

DATE: 11/2/98

b) Please provide printed name and written signature.

Name: HEIDI KENNEDY  
Title: ASSOCIATE PLANNER

Date: 11/2/98  
Phone: 341-383-6719

Signature: Heidi Kennedy

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

Additional Comments:

Lined area for additional comments.

### Description of Water Use

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

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

Applicant Name: Eagle Crest, Inc.  
 Address: P.O. Box 1215  
Redmond, OR 97756  
 Phone: (541) 548-9374

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

- Irrigation (crop type, golf course, nursery or greenhouse): \_\_\_\_\_
- Livestock (type of livestock, feedlot, slaughterhouse): \_\_\_\_\_
- Residential (# units, single or multi-family, # lots if partition or subdivision): \_\_\_\_\_
- Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): \_\_\_\_\_
- Industrial (i.e., factory, pulp mill, research and development, processing, etc.): \_\_\_\_\_
- Institutional (i.e., school, library, etc.): \_\_\_\_\_
- Mining (aggregate, metal, open pit, placer, etc.): \_\_\_\_\_
- Recreation (park, campsite, pond, etc.): \_\_\_\_\_
- Fish and Wildlife (pond, hatchery, etc.): \_\_\_\_\_
- Hydropower (dam, reservoir, power generating or transmitting facilities): \_\_\_\_\_
- Other (Name and list key characteristics): Quasimunicipal for up to 900+ lots including commercial, domestic, fire protection, and other uses.

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
<input type="checkbox"/> Surface Water Name sources: _____ _____ _____	<u>2.0</u> Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
<input type="checkbox"/> Reservoir or pond	
<input checked="" type="checkbox"/> Ground Water	





920 S.W. Emkay Dr., Suite C-100  
Bend, Oregon 97702

October 28, 1998

Oregon Water Resources Department  
3850 Portland Rd., NE  
Salem, OR 97730

**Re: Eagle Crest III  
Eagle Crest, Inc.  
Water Right Appropriation Application  
File No: 0526-0107**

RECEIVED  
NOV 02 1998  
WATER RESOURCES DEPT  
SALEM, OREGON

Gentlemen/Ladies:

I have enclosed an application, application map, land use compatibility statement, legal description, a well log for the nearest known well, and a check to cover recording and examination fees. Our application requests a permit to utilize groundwater for quasi-municipal purposes. Our permit fee was calculated as shown below:

Examination fee	\$200.00
First CFS	\$100.00
Additional 2.2 CFS	\$150.00
Total	\$450.00

The proposed development will provide residential growth opportunities for the City of Redmond and Deschutes County. Water use will be extremely varied and will include domestic use, fire protection, landscape irrigation, maintenance of water levels for aesthetic water feature ponds, construction watering, dust abatement, commercial and recreation uses and similar uses usual and ordinary to municipal water use.

Since the development is a long-term, phased program, a fifteen year project schedule is requested to allow for the phased development process. Buildout of the multi phase development is anticipated on or before the year 2015.



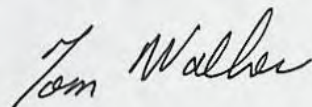
We request appropriation of groundwater from a new well to be located on tax lot 151200-0004800. Tax lot 151200-0004800 is described as all lands in Section 16 of Township 15 South, Range 12 East except the Southeast ¼.

The proposed well will have an estimated capacity of 3.2 CFS +/-, based on an existing well located at approximately the same elevation and 550' +/- away.

Please do not hesitate to call me with any questions you may have during your review.

Sincerely,

**W&H PACIFIC, INC.**

A handwritten signature in cursive script that reads "Tom Walker".

Thomas A. Walker, P.E., CWRE

REH

enclosure

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NOV 02 1998

WATER RESOURCES DEPT  
SALEM, OREGON



IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Prineville District Office  
P.O. Box 550 (3050 N.E. 3rd Street)  
Prineville, Oregon 97754

614857  
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NOV 09 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Ms. Anita Huffman  
Oregon Water Resources Department  
158 12<sup>th</sup> Street NE  
Salem, OR 97310

NOV 06 1998

Dear Ms. Huffman:

Tom Walker, representing Eagle Crest, has requested that I write to you to confirm that Eagle Crest has initiated the process to obtain an access and utility right-of-way (ROW) from BLM. The ROW proposed by Eagle Crest would connect two private parcels that are separated by federal lands administered by BLM. One of the parcels is isolated within a BLM block.

As part of the process, Eagle Crest must submit a detailed application and that application will be reviewed under the guidelines established under the Federal Land Policy and Management Act (FLPMA) of 1976, which includes examination under the National Environmental Protection Act (NEPA). Eagle Crest will not obtain the required permit until all the requirements of FLPMA and NEPA have been met. Normally, BLM will grant some form of reasonable access and utility ROW for isolated parcels.

The process for obtaining a ROW may be done concurrent with other processes. In fact, it is helpful to know about the research and findings of other agencies as they complete their processes. Please send such information as it becomes available. Please call me at (541) 416-6709 or write to the address above if you have questions or comments.

Sincerely,

Ronald W. Wortman

cc: Thomas A Walker, P.E., C.W.R.E.



920 S.W. Emkay Dr., Suite C-100  
Bend, Oregon 97702

November 3, 1998

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NOV 06 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

Ms. Anita Huffman  
Water Rights Specialist  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97301

RE: **Eagle Crest, Inc.**  
**OWRD File No. G-14857**  
**WHP File No. 526-0107**

Dear Anita:

Thank you for meeting with me on the Eagle Crest ground water appropriation application and your significant assistance. As you suggested, we have compiled and enclosed additional information.

Your standard Form M has been completed and is attached for your use. We have also enclosed three additional copies of the water right appropriation application map.

As discussed, the new water right will primarily serve a new area of development, westerly of the existing Eagle Crest Resort. The new development area is segregated from the existing resort by a strip of BLM land. We intend to interconnect the water systems for the new development tract with the existing resort system. The interconnection will require crossing BLM land. We had previously contacted BLM to initiate the right-of-way permit application process. Earlier today, I requested a letter from BLM indicating they will accept and evaluate an Eagle Crest request for underground utilities and access. BLM has indicated they normally must provide reasonable access for land-locked parcels, which does apply to our situation. The letter from BLM should be sent directly to you within the next few days.

Thank you again for your significant assistance. Please never hesitate to contact me if you have questions or needs for any further information.

Very Truly Yours,

W&H PACIFIC, INC.

Thomas A. Walker, P.E., C.W.R.E.

Cc: William D. Lyche

Tw11398.doc





## Oregon Water Resources Department

## FORM M

## FOR MUNICIPAL WATER SUPPLIES

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NOV 06 1998

Unless otherwise noted, water use information should be in acre-feet per year.  
An acre-foot is equal to 325,851 gallons.

WATER RESOURCES DEPT.  
SALEM, OREGON

## Background Information

Name of water supplier: Eagle Crest, Inc.Name and size of area to be served: TL 151200-00004800 - .75 sq mi  
(in square miles)Present population of service area: 0  
(Cite source and year.)Projected population in 20 years: 900 EDU X 3 = 2700 persons  
(For example: "20,595 Based upon 1995 Portland State University projections." Contact county planning staff, if needed.)

List present water rights and permits held:

Date of Issuance: \_\_\_\_\_ Natural Source of Water: \_\_\_\_\_ Amount Permitted: \_\_\_\_\_

The 3/4's of section 16 referenced by TL 151200-00004800 are the primary lands to be serviced by this application. No water rights exist within Section 16. The proposed water supply system will be linked to Eagle Crest I and II for continuity and redundancy to enhance emergency fire flows. The following permits are in effect at Eagle Crest I and II: G-10530, G-10957, G11313, G11762.

## Water Use

Average yearly demand: 350 ± AFY Year: 2020 ±Per-capita daily consumption (in gallons): 115 ±  
(Divide average annual water sales by population to arrive at consumption, then divide by 365 to get daily values.)Peak season (by month/day): 6/1 to 9/1 Total peak season demand: 146± Acre-feetPeak season per-capita consumption: 196 ± gal.  
(Divide total peak season demand by population)

Annual amount of water:

produced: 350±  
(diverted or pumped)delivered: 318±Is your system fully metered?  Yes  No

Describe your rate structure: The proposed system will be fully metered and a rate structure will be implemented to encourage water conservatio  
(e.g. flat rate, increasing or decreasing block rate or combination of different systems)

Request for Water

A. Discuss the reason(s) for your request for additional water Growth  
(e.g. loss of current supply, peak demand, growth, or other):

The additional water supply will be utilized to support development.

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NOV 06 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

B. How long is the amount of water requested in this application expected to meet future needs?  
(e.g. until the year 2040) +2040 .he water supply is expected to meet consumption demand at full buildout of the proposed development.

C. Briefly discuss operation of water system and the most constraining component of the system:  
A well-pump is expected to discharge to a water supply system, including a storage reservoir. The most constraining component of the system will be the well and well pump, and the associated realibility of these source components.

D. Percentage of water use by type:

Residential: 70% Commercial: 10%  
Public Authority: Agricultural:  
Unaccounted for use: 10% Industrial:  
Other(specify use): Construction, common area irrigation, recreation, water system maintenance, etc. - 10%

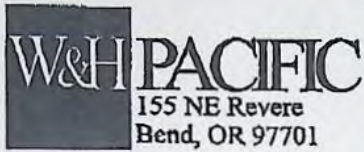
E. List cost to implement proposed request.

Compare cost and benefits with other water supply, or combination of supply options. This should include water efficiency measures such as replacing current showerheads with low-flow types. (Attach documentation, as available.)

The existing Eagle Crest Resort has no excess source capacity to supply the proposed development area. No other existing water supply systems exist within any cost effective distance. The cost to implement this water right request is estimated at \$3 million and includes approximately \$170,000 for the well, pump, and building; +\$2.6 million for the distribution system and +\$300,000 for appurtenances.

F. How and by how much will your proposed water use efficiency programs increase efficiency?  
(Express as a percentage of per-capita consumption.)

N/A - This application will accommodate a new system.



FAX  
 TRANSMITTAL

To: Mr. Ken Lite  
Company: Oregon Water Resources Department  
Address:  
City / State / Zip:  
Tel / Fax:

Date: December 14, 1998  
Project Number: 0526-01-07  
Project Name: Eagle Crest III Water Right Appropriation Application  
Regarding:  
OWRD File #: G-14857

From: Thomas A. Walker, P.E.  
Phone: (541)388-4255  
Fax: (541)388-4229

Confidentiality Notice: This facsimile is intended for the use of the individual and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient or the employee/agent responsible for delivering the message to the intended recipient, you are hereby notified that the unauthorized dissemination, distribution or copying of this communication, or the taking of any action in reliance on the contents of this information, is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone (collect).

We are sending:

- Attached
- Facsimile
- 3 # of pages including cover

These are transmitted:

- For your info/file
- As requested
- For review and comment

Copied to:

Alan VanVliet

Copies	Description
1	W & H Pacific Correspondence Dated October 28, 1998

Ken,  
Thanks very much for your work on the pending Eagle Crest application. As discussed, my letter of October 28, 1998 contained a typing error on the distance to another Eagle Crest well. I have noted the correction of the enclosed copy of the correspondence. Please consider my attachment and the other information in our application file and never hesitate to call me with any further questions or needs for information.

Engineering ♦ Landscape Architecture ♦ Environmental Services  
Planning ♦ Surveying and Mapping

Washington ♦ Oregon ♦ Idaho



920 S.W. Emkay Dr., Suite C-100  
Bend, Oregon 97702

October 28, 1998

Oregon Water Resources Department  
3850 Portland Rd., NE  
Salem, OR 97730

**Re: Eagle Crest III  
Eagle Crest, Inc.  
Water Right Appropriation Application  
File No: 0526-0107**

DEC-14-1998 10:43

W&H PACIFIC

503 388 4229 P.02/03

Gentlemen/Ladies:

I have enclosed an application, application map, land use compatibility statement, legal description, a well log for the nearest known well, and a check to cover recording and examination fees. Our application requests a permit to utilize groundwater for quasi-municipal purposes. Our permit fee was calculated as shown below:

Examination fee	\$200.00
First CFS	\$100.00
Additional 2.2 CFS	\$150.00
<b>Total</b>	<b>\$450.00</b>

The proposed development will provide residential growth opportunities for the City of Redmond and Deschutes County. Water use will be extremely varied and will include domestic use, fire protection, landscape irrigation, maintenance of water levels for aesthetic water feature ponds, construction watering, dust abatement, commercial and recreation uses and similar uses usual and ordinary to municipal water use.

Since the development is a long-term, phased program, a fifteen year project schedule is requested to allow for the phased development process. Buildout of the multi phase development is anticipated on or before the year 2015.

I have enclosed an application, application map, land use compatibility statement, legal description, a well log for the nearest known well, and a check to cover recording and examination fees. Our application requests a permit to utilize groundwater for quasi-municipal purposes. Our permit fee was calculated as shown below:

(541) 388-4255 Fax (541) 388-4229

Planning • Engineering • Surveying • Landscape Architecture



We request appropriation of groundwater from a new well to be located on tax lot 151200-0004800. Tax lot 151200-0004800 is described as all lands in Section 16 of Township 15 South, Range 12 East except the Southeast 1/4.

The proposed well will have an estimated capacity of 3.2 CFS +/-, based on an existing well located at approximately the same elevation and 550' +/- away.

Please do not hesitate to call me with any questions you may have during your review.

Sincerely,

5,500'

W&H PACIFIC, INC.

12-14-98

Tom Walker

Tom Walker

Thomas A. Walker, P.E., CWRE

REH

enclosure: copy of groundwater from a new well to be located on tax lot 151200-0004800. Tax lot 151200-0004800 is described as all lands in Section 16 of Township 15 South, Range 12 East except the Southeast 1/4. The proposed well will have an estimated capacity of 3.2 CFS +/-, based on an existing well located at approximately the same elevation and 550' +/- away. Please do not hesitate to call me with any questions you may have during your review.

Sincerely,

5,500'

W&H PACIFIC, INC.

12-14-98

Tom Walker

Tom Walker

Thomas A. Walker, P.E., CWRE

REH

IR CHECKLIST

Application #: G 14857

Basin: DESCHUTES WAB: 01034 POU-WAB  
Township 15S Range 12E Section 16 1/4 1/4 NW NW

- 1. Is the file complete by the Minimum Requirements Checklist? Y / N
- 2. Indicators that the process should not continue (ie - items missing, letter to file indicating hold, or other) Y  N
- 3. Groundwater Review  A  B  C  D River/Stream Name DESCHUTES RIVER
  - a. Groundwater Availability A B  C
  - b. Is the well located in a GWLA? (if applicable, include map with POD) Y /  N
- 4. Is the well located in T1N R3E Sec 20, 21, 28, 29 Y /  N
- 5. SWW  Y /  N
- 6. Allowed under Basin Program Y / N Limitations? Y / N
- 7. Withdrawn? Y /  N season allowed
- 8. Basin Maps have been checked. Y / N The River Mile is
- 9. Water Availability (80% live flow / 50% storage) NA AVAIL APRIL ONLY ON

NOTE: PER LAND USE FORM  
THIS APP COVERS THE HATCHURED  
AREA ONLY (TAX LOT 151200000 4800).  
I DO NOT BELIEVE AN EASEMENT  
IS NECESSARY FROM A WR'S  
PERSPECTIVE - DIVERTED & USED  
THE SAME PROPERTY

- 10. Rate/Duty/Season Allowable Requested 1.74 (780 GPM)
- 11. Use Quasi Muni Allowed Use 1.74 YR RND
- 12. Priority Date(s) 11/2/98
- 13. B.O.R. or Doug Co. project Y /  N contract #
- 14. DIVISION 33  Y /  N / NA Above Bonn  Y /  N (7/17/92) Below Bonn  Y /  N (4/8/94) Statewide  Y /  N (6/3/94) map date
- 15. Tualatin River or Bear Creek (Rogue) Basin Y /  N New River Basin Y /  N
- 16. Conflicts Y /  N /  NA DM
- 17. Condition S (<0.1, <9.2), M (>1.5, >100), BOR, GW, etc. Y / N 7B, 7J, COMPLAN (? YRS)
- 18. Land use approval  OK'd needs approval county notified NA
- 19. Watermaster Dist: (1 2 16 18 - NWR) (3 4 5 - NCR) (6 8 9 10 - ER)  (11) 12 17 - SCR) (13 14 15 19 - SWR)
- 20. Letter format == Good == Limited == Bad == Bad w/ IRshort == Bad w/ HC Opportunity

ATTN: RONALD WORMAN FARM WALKER (CWRE) OWNER  
PO Box 550  
PRINEVILLE, OR 97754  
RAMER B. HOLTON, JR  
1201 THIRD AVE, 40<sup>TH</sup> FLOOR  
SEATTLE, WA 98101-3099

BLM Land

SEC 15

$$\begin{array}{r} 250 \\ \underline{150} \\ 400 \\ \underline{75} \\ 1.73 \text{ cts} \end{array}$$

475 -



# Oregon

John A. Kitzhaber, M.D., Governor

## Water Resources Department

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

June 4, 1999

Eagle Crest Inc.  
William D. Lyche  
P.O. Box 1215  
Redmond, Oregon 97756

RE: Application G-14857

Dear Mr. Lyche:

Based on your telephone conversation with Department staff, the Department has placed your application on administrative hold until **September 1, 2000**. Given the complex issues in the Deschutes Basin and the projected time-lines for the Deschutes Basin Water Management Planning Process, the Director has determined that an administrative hold of longer than 180 days is reasonable and necessary in this case. Please contact the Department anytime before the above date if you wish to continue with the processing of your application.

If you have questions about the contents of the Initial Review please contact Adam Sussman at (800) 624-3199 ext. 262. Questions regarding the Deschutes Basin Water Management Planning Process and MOU can be directed to Rebecca Geisen at (800) 624-3199 ext. 241 or Bob Main at (541) 388-6669.

The Department has placed you on the mailing list to receive material and meeting notices. Thank you for your willingness to work with the Department.

Sincerely,

Dwight Breneh  
Administrator, Water Rights Division

# 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-14857

Applicant: EAGLE CREST INC.; LYCHE, WILLIAM D

County: DESCHUTES

Watermaster: District 11

Priority Date: November 2, 1998

Source: A WELL IN DESCHUTES RIVER BASIN

Use: QUASIMUNICIPAL USE

Quantity: 1500.0 GALLONS PER MINUTE

Basin Name & Number: Deschutes, #05

Stream Index Reference: Volume 1 DESCHUTES R MISC

Point of Diversion Location: SWSE, SECTION 15, T15S, R12E, W.M.;

Place of Use: , SECTION 15 , SECTION 16 , SECTION 22 , SECTION 23, TOWNSHIP 15  
SOUTH, RANGE 12 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Tuesday, June 4, 1999

PUBLIC NOTICE DATE: Tuesday, June 8, 1999

30 DAY COMMENT DEADLINE DATE: Thursday, July 8, 1999

## Memorandum

May 24, 1999

**To:** Hannah Wood/Anita Huffman  
**From:** Rebecca Geisen  
**Re:** Division 86 permit condition, Application # G-14857

I believe this application is on administrative hold pending the outcome of the Deschutes Basin Water Management Planning Process. The following permit condition should be included should the application move forward.

**Within 1 YEAR of permit issuance, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86. The Director may approve an extension of this timeline to complete the required Water Management and Conservation Plan.**



# Oregon

John A. Kitzhaber, M.D., Governor

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

**THIS IS AN INITIAL REVIEW (IR) OF APPLICATION G-14857.**

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

May 21, 1999

WILLIAM D. LYCHE  
EAGLE CREST INC.  
PO BOX 1215  
REDMOND, OREGON 97756

Reference: File G-14857

Dear Applicant:

This document is the Department's preliminary analysis of your water use request called an Initial Review (IR). The purpose of the IR is to make a "first-cut" evaluation of the application, specifically focusing on whether the use is restricted by statute or rule and whether water is available for the proposed use. The IR is also meant to highlight issues and determinations that may preclude approval of the use or that may lead to restrictions.

This letter is to inform you of the *unfavorable* preliminary analysis of your water use application. The unfavorable analysis stems from the Department's determination that the proposed well is hydraulically connected to the Deschutes River and has the potential for substantial interference. When the Department determines that a potential for substantial interference with surface water exists, it is required to not only evaluate your application with respect to ground water laws and rules but it is also required to consider laws and rules governing the (hydraulically connected) surface water source.

As you will see from the analysis below, the Department's determination that your well is connected to the Deschutes River presents a number of obstacles to application approval. I urge you to contact Rebecca Geisen at (800) 624-3199 ext. 241 or Bob Main at (541) 388-6669 to find out more about a working group that has been formed in the Deschutes Basin to address this situation.

### 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 **Tuesday, June 4, 1999**. For your convenience you may use the enclosed "STOP PROCESSING" form.

### To Request an Administrative Hold

At the applicant's request, the Department can automatically place the application on-hold for 180 days. An administrative hold for more than 180 days may be granted upon a finding by the Director that the request is reasonable and necessary. To request an administrative hold simply notify the Department in writing by July 8, 1999. Please be sure to specify how long you would like your application to be on hold

### 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.

Finally, in the event a permit is issued, the following standard conditions will likely apply:

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. 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(s) 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.

MEMORANDUM

TO: Application and Groundwater File G - 14857  
From: *Dwight French* Dwight French, Acting Administrator, Water Rights Division  
Date: May, 21 1999

Regarding: Certain groundwater section reviews completed by Ken Lite for the Deschutes Basin

Fred Lissner, Ken Lite and I all agreed during the last week of April that it was not appropriate for box 2c to be checked in conjunction with box 2a on division 9 groundwater review forms. Disregard the check on box 2c for this application.



Oregon Water Resources Department

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 instruction booklet when completing your application. Thank you.

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NOV 02 1998

1. Applicant Information

WATER RESOURCES DEPT  
SALEM, OREGON

A. Individuals

(If more than one person is applying, please attach a sheet providing the information below for each person applying.)

Name: \_\_\_\_\_  
Last First MI

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: Eagle Crest, Inc.

Name and title of person applying: William D. Lyche

Mailing address of organization: P.O. Box 1215

Redmond OR 97756  
City State Zip

Phone: (541) 548-9374  
Day Evening

\*Fax: (541) 923-0881 \*E-Mail address: \_\_\_\_\_

\*Optional information

For Department Use

App. No. G14857 Permit No. \_\_\_\_\_ Date 11/2/98

## 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 in the instruction booklet):

quasimunicipal

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WATER RESOURCES DEPT.  
SALEM, OREGON

- 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, attach Form M
- If your proposed use is commercial/industrial or quasi-municipal, attach Form Q

### 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, and 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 Annual Amount	Production Rate of the Well in gpm
#1	ground water	quasimunicipal	311,000	780
NOTE: Flows may be increased to 1500 gpm for fire protection.				

### C. Season of Use

Indicate the time of year you propose to use the water (for seasonal uses like irrigation give dates when water use would begin and end):

year round

### D. Acreage

If you will be applying water to land, please give the total number of acres where water will be applied or used:

40 +/- on proposed lots. Landscape irrigation and other irrigation usual and ordinary to municipalities.

5. Water Management

A. Diversion

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

Pump (give horsepower and pump type) Vertical turbine - 250 hp

Other means (describe) \_\_\_\_\_

B. Transport

How will you transport water to your place of use?

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WATER RESOURCES DEPT.  
SALEM, OREGON

Ditch, 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(s) 10" +/- Length 61,000 lf of pipe (estimated throughout the project)

Other (describe) \_\_\_\_\_

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

In-line storage (tank or pond)  Direct pipe from source  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.

Pipe to transport and sprinkler irrigation will be used to

prevent loses common to ditch and flood irrigation methods.

Water meters to be provided at residences.

6. Project Schedule

Proposed date construction will begin 1/2000

Proposed date construction will be completed 4/2000

Proposed date beneficial water use will begin 4/2000

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.*

The applicant is requesting a quasimunicipal permit to supply water to the development for domestic use, construction watering, reclamation, landscape irrigation, water feature (aesthetic) makeup and other ancillary uses usual and ordinary to a municipal supply system.

RECEIVED

Signature

By my signature below I confirm that I understand:

NOV 02 1998

WATER RESOURCES DEPT.  
SALEM, OREGON

- 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 is 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 statements made and information provided in this application are true and correct to the best of my knowledge:

*William D. Pycher*  
Signature of Applicant

Date

Signature of Co-applicant

Date

Before submitting this application, have you:

- Answered every question?
- Included a Land Use Information Form or receipt stub signed by a local official?
- Attached a legible map that meets all the necessary criteria?
- Included a check made out to WRD for at least the amount of the application fee?

Last revision: October 31, 1996

2. Location and Source

The Department cannot process your application without accurate information showing the source of water and location of water use. You must attach a map to 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 page 3 in the instruction booklet for detailed map specifications. In addition, please provide the following information:

A. County
In what county is the use proposed? Deschutes
In what county is the appropriation point proposed? Deschutes

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WATER RESOURCES DEPT. SALEM, OREGON

B. River Basin
(See instruction booklet pg.3 for list): Deschutes

C. Property Ownership
Do you own all the land where you propose to divert, transport, and use water?
[ ] Yes (Skip to section 3 "Groundwater Development.")
[X] No Please check the appropriate box below, and on a separate sheet of paper list the names and addresses of all affected landowners.\*\*
[ ] I have a recorded easement or written authorization permitting access.
[ ] I do not currently have written authorization or easement permitting access.

\*\*If more than 25 landowners are involved, a list is not required. See page 4 in the instruction booklet for more details.

3. Groundwater Development

A. Number of wells: 1 B. Name of nearest surface water body Deschutes River
C. Distance from well(s) to nearest stream or lake: 1) 1.2 miles from Deschutes River
2) 3) 4)
D. If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head. 1)
2) 3) 4)

**E. 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 question F in this section of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

1. Wells will be constructed by: a State qualified contractor

Address: N/A

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NOV 02 1998

Completion date: 1/2000

WATER RESOURCES DEPT.  
SALEM, OREGON

2. 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	Estimated depth to water	Est. depth to water-bearing stratum	Type of access port or measuring device	Total well depth
#1	17"	14" .250 gauge steel	800'	500-750±	50'±	500±	540	air tube probe conduct	800'
NOTE: The well is not constructed. This information is based upon a similar nearby well: see attached									

**F. Artesian Flows**

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

N/A

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**PFO CHECKLIST**

Application #: G 14857

County DESCHUTES Basin: DESCHUTES 5  
Township 15 S Range 12 E Section 15 1/4 1/4 SW SE

1. Shortcomings preventing PFO, FO, or permit? Y/N Should process continue? Y/N

2. Groundwater Review A B C D River/Stream Name DESCHUTES R

a. Groundwater Availability A B C

b. Is second groundwater review complete? Y/N necessary? Y/N

c. Is the well located in a GWLA or CA? Y/N (If Y or close include map of POD) Area \_\_\_\_\_

3. Is use from BOR / Doug Co. project? Y/N Contract in file? N / Contract # \_\_\_\_\_

4. Is the use allowed by the Basin Program? Y/N Limited? Y/N \_\_\_\_\_

5. Water Availability Data OK / REDONE / NA (80% live flow & 50% storage) \_\_\_\_\_

6. Is the source **withdrawn** or limited by statute or Department order? Y/N \_\_\_\_\_

7. Is the Proposed Use located in or above a **SWW**? Y/N \_\_\_\_\_

8. Division 33: Y/N/NA Above Bonn (after July 17, 1992) Y/N

Below Bonn (after April 8, 1994; June 3, 1994) Y/N

Statewide - (in shaded areas on T, E, and S Map - after June 3, 1994) Y/N

9. IR identifies as on DEQ 303d List? Y/N/NA Comments received? Y/N

10. Have conflicts been addressed? Y/N/NA \_\_\_\_\_

11. Rate \_\_\_\_\_  
Duty \_\_\_\_\_ Season: Normal Req \_\_\_\_\_ Allowed YR END

12. Rate: Max Req 1.74

13. Small ( $\leq 0.1$ cfs,  $\leq 9.2$ AF), Medium ( $> 0.1$  or  $< 1.5$ cfs,  $> 9.2$  or  $< 100$ AF) or Large ( $\geq 1.5$  cfs,  $\geq 100$  AF) condition **7I** and municipal use  $\leq 0.1$ cfs require the **Large** condition

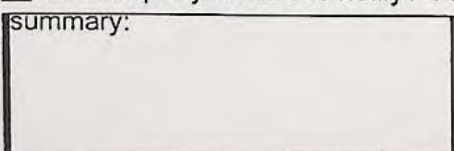
TIME OUT  
CENTERS TR  
9/1/00

14. Conditions Condition 1 yr, 7B, 7J  
New River Basin or Bonanza? Y/N/NA (see M:\groups\wr\pfo\findings & other lang)

15. IR Date 5/21/99 Public Notice Date 6/24/99 Comment Rec'd \_\_\_\_\_

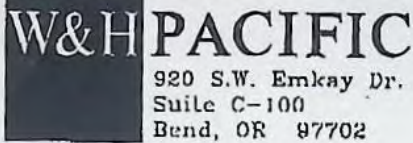
16. Filed after 10/23/99? Y/N (if Y A date should be removed)

17. CWRE, representatives or Property owners to notify? Y/N  
Tom Walker (owner)

summary:  


Ronald Underman, PO Box 550, Prineville, OR 97754  
Ronnie Holman, Jr., 1201 TOWN AVE, 40<sup>TH</sup> FLOOR, SEASIDE, WA 98131-3099

Initials: RWB Date: 1/26/99

*Creative Solutions...Superior Service***MEETING NOTES**

Present:	Martha Pagel, Director, OWRD Dwight French, Manager Permit Section, OWRD Alan VanVliet Tom Walker	Date:	January 31, 2000
Distribution:	Dwight French Alan VanVliet Nancy Craven Charlie Brown	Project Name:	Eagle Crest III
		Project Number:	526-0107
		Regarding:	Pending Groundwater Appropriation Application

Notes By: Thomas A. Walker, P.E. *TAW*

Phone: (541)388-4255

Fax: (541)388-4229

We solicited and attended a meeting in Salem today to consider the pending groundwater appropriation application to serve Eagle Crest III. We expressed our appreciation for the meeting and asked for open comments on our best opportunity to obtain a groundwater permit for Eagle Crest.

***Eagle Crest History:***

I initiated the meeting with a brief summary of water use and the history of groundwater rights at Eagle Crest. The original development at Eagle Crest was initiated in the mid 1980's. The original resort is fully developed, including all infrastructure. The resort was expanded to The Ridge at Eagle Crest, referred to as Eagle Crest II. Groundwater quasimunicipal rights are available for the existing resort (Eagle Crest I and II), and most of the appropriate infrastructure has been completed. Eagle Crest, Inc. is now considering a 480 acre expansion, which is referred to as Eagle Crest III. A groundwater appropriation permit is required to allow Eagle Crest III to proceed.

We filed the Eagle Crest III groundwater application in October of 1998. The application requests 1,500 gpm. However, resorts are subject to wide fluctuations in water use. We would expect an average diversion, at full build-out, of approximately 200 gpm.

The Eagle Crest III groundwater application was caught in the Deschutes Basin moratorium. We subsequently filed a mitigation plan to offset impacts from the groundwater withdrawal. The mitigation plan includes dedication of existing surface water rights to an in-stream use. We have proposed bucket-for-bucket mitigation.

In 1994 Eagle Crest purchased 180 acres of Swalley Irrigation District rights. The rights are delivered down the Deschutes River for approximately 18 miles below Bend. The Eagle Crest purchase and river delivery were sponsored by Bob Main and the Swalley Irrigation District. The Eagle Crest delivery was considered a pilot project and intended

**MEETING NOTES**

February 1, 2000

Page 2

to benefit the middle reach of the Deschutes River. The delivery of the Eagle Crest Swalley rights resulted in a nearly 20% increase in summertime flows in the middle reach of the Deschutes River. The Swalley water right transfer was used as a very successful pilot project, providing an important and significant benefit for the Deschutes River. The proposed mitigation plan continues the same success.

***Mitigation Plan:***

The existing Eagle Crest mitigation plan describes 8.6 acres of Swalley Irrigation District rights that are proposed to be transferred to an in-stream use. The Swalley rights mitigate approximately one-half of the proposed groundwater withdrawal. A regional mitigation, being developed by the Deschutes Basin Task Force, is proposed to mitigate the remaining half of the groundwater withdrawal. We explained today however that Eagle Crest is prepared to transfer enough Swalley Irrigation District rights to an in-stream use, to mitigate all of the proposed groundwater withdrawal.

Martha Pagel questioned how the Swalley water right was determined to be equivalent (bucket-for-bucket) to the groundwater withdrawal. Dwight and I explained the annual volume of water consumption at full build-out was calculated. The consumptive use portion of our right was calculated in the same manner currently being discussed by the Deschutes Basin Task Force. In addition, we agreed that groundwater withdrawals would be metered and additional water rights transferred to the in-stream use if needed, to assure full bucket-for-bucket mitigation.

Dwight French explained that Bob Main had reviewed our mitigation plan, requested refinements, and approved the calculations currently proposed by Eagle Crest.

***Land Use Status:***

Eagle Crest remains very time sensitive due to land use action and the restrictions associated with summer time construction and sales. We explained Eagle Crest has obtained a conceptual master plan approval from Deschutes County. The final master plan, which includes a Deschutes County Administrative Review, remains to be completed. The final master plan requires a groundwater permit at the time of the application.

***Alternatives For The Processing of Water Rights:***

Dwight French and Martha Pagel voiced support for an Eagle Crest plan that provided bucket-for-bucket mitigation and a permanent transfer to an in-stream use. I explained that Eagle Crest is prepared to complete a permanent in-stream transfer, however, Swalley Irrigation District policies prohibit a permanent transfer to an in-stream use. The Swalley Irrigation District is prepared to immediately approve an in-stream lease, including lease renewals on a two-year term.

We disclosed our intent to meet with the Swalley Irrigation District and solicit permission for a permanent in-stream transfer. If approved, then Martha and Dwight would be very comfortable in recommending issuance of a permit. Until a permanent in-stream transfer is authorized, the proposed final order should discuss a lease under a time limited permit. The time limited permit could become unrestricted upon completion of a permanent transfer. Under the best conditions, 45 to 60 days will be required to process a permit.

Martha Pagel suggested the environmental community may well oppose an in-stream lease. Martha suggested that any in-stream lease must be off-set by a limited permit, which would essentially expire with the mitigation. Dwight French acknowledged the risk associated with this type of permit, and suggested Eagle Crest file a back-up application.

Engineering ♦ Landscape Architecture ♦ Environmental Services  
Planning ♦ Surveying and Mapping

Washington ♦ Oregon ♦ Idaho

## MEETING NOTES

February 1, 2000

Page 3

A back-up permit application would be filed immediately, and processed through the initial review. Eagle Crest would likely utilize a regional mitigation, currently being developed by the Deschutes Basin Task Force, to allow issuance of a permit. If the regional mitigation is a better alternative than what has been proposed today, then the original permit can be abandoned.

Another alternative is to gain a permit amendment from OWRD, allowing expansion of the area of use. Under this proposal, the existing water rights serving The Ridge at Eagle Crest could be utilized at Eagle Crest III. The diversion rate could not be changed, but the area of use could be expanded. A permit amendment would allow Eagle Crest III development to commence. Development at Eagle Crest III would be limited by the existing water right. A permit amendment might however allow Eagle Crest to initiate development at Eagle Crest III. Approximately 30 to 60 days are required to process a permit amendment.

We also discussed a limited license for a quasimunicipal use, for a term of up to 5 years, or the term of an in-stream lease. A limited license could be processed in approximately 30 days, but would be limited to the term of an in-stream lease.

It was agreed that Eagle Crest is likely best served by processing all alternatives concurrently.

***Deschutes Basin Task Force Presentation:***

Dwight French explained the Deschutes Basin Task Force will meet on February 15<sup>th</sup> in Bend. Dwight recommends the Eagle Crest mitigation plan be presented for review and comment. Martha Pagel agreed to make the presentation. She will also announce that OWRD intends to issue a proposed final order on the same day. A proposed final order is subject to a 45-day protest. Eagle Crest agreed to attend the February 15<sup>th</sup> meeting to answer questions about the significant benefits to the middle reach of the Deschutes River.

Prior to the February 15<sup>th</sup> meeting, Martha Pagel will advise her Deschutes Basin Committee on the proposed Eagle Crest application and mitigation plan. The Committee is made up of a representative of Water Watch, Jim Noteboom and Martha.

***Summary:***

It was agreed that Eagle Crest should process all available alternatives concurrently. The following action items should be completed as quickly as possible:

- Proceed with the scheduled meeting with the Swalley Irrigation District to solicit approval for a permanent transfer to an in-stream use.
- Ask OWRD to issue a proposed final order on February 15<sup>th</sup>, specifying a time limited permit tied to an in-stream lease, with an automatic conversion to a standard permit when a permanent in-stream transfer is completed.
- Initiate a lease application immediately. W&H Pacific will check directly with Kyle Gorman for requirements.
- Consider application for a limited license, following informal reviews with the Deschutes County Planning Department staff. If a limited license would meet the requirements under the final master plan, then the limited license application could be approved within 30 days.

Engineering ♦ Landscape Architecture ♦ Environmental Services  
 Planning ♦ Surveying and Mapping

Washington ♦ Oregon ♦ Idaho

**MEETING NOTES**

February 1, 2000

Page 4

- Contact Deschutes County to confirm a permit amendment would meet the requirements under the final master plan for Eagle Crest III. If a permit amendment meets land use requirements, then solicit a letter from OWRD to describe the vested rights (subject only to the injury test), and solicit immediate Deschutes County authorization to proceed with land use.

Engineering ♦ Landscape Architecture ♦ Environmental Services  
Planning ♦ Surveying and Mapping

Washington ♦ Oregon ♦ Idaho

# Oregon Water Resources Department



State of Oregon  
**Water Resources Department**  
158 12th Street NE, Salem, OR 97310  
1(800)624-3199 • (503)378-8455  
www.wrd.state.or.us

## Fax Transmittal

TO: Bob + Kyle

FAX: \_\_\_\_\_ DATE: 2-3-00 PAGES: 5

FROM: \_\_\_\_\_

COMMENTS: Update on Eagle Crest. 3.  
Call or email w Questions. We'll discuss  
also at next intrastaff meeting.

Dwight

### Director's Office

- Water Resources Commission
- Legislation and Rules
- Public Information

### Field & Technical Services

- Dam Safety
- Hydrographics
- Ground Water
- Information Services
- GIS/Mapping

FAX: 503-378-2496

### Administrative Services

- Accounting/Fiscal
- Personnel
- Water Development Loan Fund

### Resource Management

- Regional Liaisons

### Field & Technical Services

- Enforcement

FAX: 503-378-8130

### Water Rights & Adjudications

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

### Northwest Region

- District 16 Watermaster
- Transfers

FAX: 503-378-6203

July 2, 1999

Mr. Dwight French  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310

**RE: Eagle Crest III  
OWRD File No. G-14857  
Deschutes Basin Groundwater Withdrawal  
Mitigation Plan  
WHP File No. 526-0107**

Dear Dwight:

Thank you for your continuing assistance on the pending groundwater appropriation application for Eagle Crest, Inc. in the Deschutes River Basin. We received an initial review which described the potential for a groundwater connection to Deschutes River surface water flows. I have compiled the following mitigation plan, intended to offset any impacts to surface water, from our proposed groundwater withdrawal. Your review and approval are respectfully requested.

**Eagle Crest III Introduction**

Eagle Crest III is a proposed expansion of the existing Eagle Crest Resort, located approximately four miles west of Redmond, Oregon. Eagle Crest III will encompass approximately 480 acres, approximately 900 resort dwelling units, and appropriate recreational amenities. No golf course, nor significant irrigation requirements are expected. Eagle Crest III will be operated and managed as an integral part of the existing resort.

The domestic water supply requirements for Eagle Crest III will be provided by a new groundwater well and a connection to the existing domestic water distribution system. The connection to the existing system will provide a redundant backup supply for the entire resort, allow the sharing of reservoirs and distribution piping, and improve the overall efficiency of the water supply system.

**Water Right Summary**

Eagle Crest, Inc. has filed an application for a quasimunicipal groundwater appropriation to serve the Eagle Crest expansion. The pending water right application seeks a maximum diversion of 3.34 cfs.

Water consumption at a destination resort is very different from the domestic consumption at a municipality. The occupancy at a destination resort will typically be high during the summer season, relatively high during the winter weekends or holidays, and very low the rest of the time. Water use varies significantly between weekends and weekdays, between the seasons of the year, and even during the hours of the day.



Groundwater wells at Eagle Crest will pump directly into the water distribution system whenever the project reservoirs are drawn down. The well pump will operate for a very short duration during the slack season of the resort, and will operate many more hours per day during the busy season. **The maximum diversion requested in the water right application will only be required a few days of the year and only after full buildout of the resort.**

### Consumptive Use of Water at Eagle Crest

We can estimate the water consumption for the proposed expansion of Eagle Crest by utilizing historical consumption from the existing resort development. We utilized water meter records from the existing resort wells to determine the average total water consumption for each dwelling unit, on an annual basis. We use this actual average water consumption and apply it to the proposed 900 units at Eagle Crest III, to determine the total volume of water required, on an annual basis, at Eagle Crest III.

Sewage at Eagle Crest is collected in a community sewer system, treated, and discharged in a subsurface drainfield. The sewage drainfield represents a recharge to the groundwater system. In the Deschutes Basin Groundwater Study, the recharge from sewage drainfields was considered to offset the consumptive use of groundwater. We have again utilized the existing resort units to estimate the average annual volume of sewage.

Our historical records at Eagle Crest demonstrate that a typical residential unit at Eagle Crest will require 0.28 acre feet of water from the domestic water supply system each year. This consumption is offset by a sewage contribution of 0.15 cubic feet. The net consumptive use is 0.13 acre feet per year.

At Eagle Crest III, the 900 proposed residential units are expected to result in a total consumptive use, at full buildout, of 115 acre feet. This net consumptive use of the groundwater withdrawal should be mitigated, proportionally to buildout of the resort expansion, to prevent impacts on surface water flows in the Deschutes basin.

We recognize that water consumption will vary from year to year and from neighborhood to neighborhood. Our calculations provide an estimate only. Actual consumption at Eagle Crest III can be measured accurately and adjustments made as the resort develops.

### Groundwater Mitigation Concept

The Oregon Water Resources Department has determined from an extended groundwater study in the Deschutes basin that significant groundwater is available. Groundwater in the Deschutes basin typically discharges to the Deschutes River in the general vicinity of Lake Billy Chinook. Because of this connection between the groundwater and the surface water, and because all surface water rights are not met in the lower Deschutes River, then groundwater withdrawals require some mitigation.

Eagle Crest proposes a gallon for gallon mitigation for the total consumptive use of groundwater at the proposed resort expansion project.

The middle reach of the Deschutes River, immediately below Bend, may very well have the greatest need for surface water mitigation. Eagle Crest proposes to dedicate surface water to an instream use, below the City of Bend, as mitigation for a groundwater withdrawal. This proposed mitigation should have the greatest beneficial effect on the Deschutes River because it adds water in the lowest flow section of the river and adds water that can subsequently be stored at Lake Billy Chinook.

Eagle Crest will not consume any appreciable volume of water over the next few years, because of the land use approval schedule and initial construction. Water consumption of Eagle Crest will grow slowly as residences are built and homes occupied. Based upon our experiences at the existing resort, we would expect 10 to 20 years to approach full buildout of the resort. For the purposes of this mitigation, we have assumed residential building construction would start in the year 2000 and we have assumed the expansion project would approach full buildout 10 years later. We propose that the full mitigation be implemented by the year 2005, to assure gallon for gallon mitigation over the term of the development of the resort. Likely, the mitigation will exceed the actual consumption based upon this schedule.

#### Water Right Transfer To An Instream Lease

Eagle Crest, Inc. owns a Swalley Irrigation District water right under Certificate No. 29054 and 29056. The water right is currently utilized to irrigate a golf course and grounds on a portion of the existing resort. Eagle Crest proposes to transfer the appropriate acreage of the existing Swalley Irrigation water right to offsite the consumptive use of water on the expansion project, on a gallon for gallon basis.

The following diversion rates and schedules are specified in the referenced Swalley Irrigation District permit:

➤ April 1 to April 30 and October 1 to November 1:	.012 CFS/ACRE	.007
➤ May 1 to May 14 and September 15 to September 30:	.016 CFS/ACRE	.009
➤ May 15 to September 14:	.030 CFS/ACRE	.017
➤ TOTAL:	.058 CFS/ACRE	

Twelve acres of the Swalley Irrigation water right are equivalent to the estimated total consumptive use of water at the Eagle Crest expansion project. Eagle Crest is proposing to dry 12 acres of grounds that are currently irrigated, and transfer those water rights to an instream use for mitigation.

The transfer to an in-stream right may occur through an annual lease until the volume of water is verified. In addition, local and State officials are developing a regional mitigation strategy for the Deschutes Basin. Eagle Crest reserves the right to participate in a regional mitigation if appropriate.

#### Summary

In summary, Eagle Crest is proposing a 480 acre destination resort development. A new groundwater well is required to serve that proposed development. Because groundwater and surface water are connected in the Deschutes basin and surface water rights are not met, then mitigation is required to offset potential surface water impacts. Eagle Crest has calculated the estimated total consumptive use of groundwater at the proposed development project and is prepared to mitigate the withdrawal on a gallon for gallon basis by dedicating surface water irrigation rights to an instream use. The Swalley Irrigation water rights will remain in the Deschutes River, rather than being withdrawn at the City of Bend. This mitigation will provide a significant benefit to the middle reach of the Deschutes River, which has historically experienced low summer time flows. Mitigation in the middle reach of the Deschutes River has been identified by the Deschutes Basin Taskforce as a very desirable outcome of the mitigation program.

Your review and approval of this mitigation plan are respectfully requested. Upon approval, we would expect that the pending Eagle Crest permit processing would proceed. Subject to the outcome of that standard water right application process, a water right permit will be issued.

Please consider my comments and recommendations and never hesitate to contact me if you have questions or need additional information.

Very Truly Yours,  
**W&H PACIFIC, INC.**

Thomas A. Walker, P.E, C.W.R.E.  
Vice President

Cc: Alan VanVliet

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920 S.W. Emkay Dr., Suite C-100  
Bend, Oregon 97702

RECEIVED

SEP 13 1999

9-9-99  
FAXED

WATER RESOURCES DEPT.  
SALEM, OREGON

September 9, 1999

Mr. Dwight French  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310

**RE: Eagle Crest III  
Pending Groundwater Appropriation Application  
OWD File No. G-14857  
WHP File No. 526-0107**

Dear Dwight:

Thank you for your continuing assistance on the pending groundwater appropriation application to serve an expansion of the Eagle Crest Resort. Eagle Crest has presented a groundwater withdrawal mitigation plan to allow water right permit processing while Deschutes Basin work group action continues on basin wide issues. The schedule for processing of the pending water right permit has become critical. Your review and advice are respectfully requested.

Eagle Crest submitted a groundwater appropriation application in October of 1998, anticipating a major expansion of the existing resort. Eagle Crest has continued with design of the resort expansion and necessary land use approvals. Eagle Crest recently received the Deschutes County Planning Department staff report for the required conceptual master plan approval. The staff report documents the schedule and requirements for a groundwater appropriation permit.

Deschutes County land use rules and regulations stipulate that Eagle Crest obtain a groundwater appropriation permit to serve the proposed resort expansion, prior to the approval of the final master plan.

The required land use process for Eagle Crest includes a conceptual master plan, followed immediately by a final master plan. The conceptual master plan application by Eagle Crest will be reviewed in a public hearing on September 14, 1999. We anticipate formal approval of the conceptual master plan by early October 1999. We will file the final master plan application immediately upon receipt of the conceptual master plan approval. Work is already underway on the final master plan application. Normally, we would expect approximately 30 to 45 days for the Deschutes County review of the final master plan. In summary, Eagle Crest requires a Water Resources Department groundwater permit by early November in order to prevent delays in the Deschutes County land use process. Any delays in land use approvals will force Eagle Crest outside of the desired sales season and impose significant impacts on the resort.

As discussed, the Eagle Crest mitigation plan for groundwater withdrawal represents a bucket for bucket mitigation with increased summer time flows in the middle reach of the Deschutes River. We believe the mitigation may very well exceed the recommendations or requirements of the Water Resources Department. We hope these public benefits will help you in timely processing of our mitigation plan and the associated groundwater permit. Again, your advice and assistance are respectfully requested.

Very Truly Yours,  
W&H PACIFIC, INC.

A handwritten signature in cursive script that reads 'Tom Walker'.

Thomas A. Walker, P.E., C.W.R.E.  
Vice President

Cc: Alan VanVliet

Tw090999.doc

(541) 388-4255 Fax (541) 388-4229

Planning • Engineering • Surveying • Landscape Architecture



July 2, 1999  
*Revised December 13, 1999*

**RECEIVED**  
DEC 16 1999  
WATER RESOURCES DEPT.  
SALEM, OREGON

Mr. Dwight French  
Oregon Water Resources Department  
158 12th Street NE  
Salem, OR 97310

**RE: Eagle Crest III**  
**OWRD File No. G-14857**  
**Deschutes Basin Groundwater Withdrawal**  
**Mitigation Plan**  
**WHP File No. 526-0107**

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The domestic water supply requirements for Eagle Crest III will be provided by a new groundwater well and a connection to the existing domestic water distribution system. The connection to the existing system will provide a redundant backup supply for the entire resort, sharing reservoirs and distribution piping, and improving the overall efficiency of the water supply system.

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Eagle Crest, Inc. has filed an application for a quasimunicipal groundwater appropriation to serve the Eagle Crest expansion. The pending water right application seeks a maximum diversion of 3.34 cfs.

Water consumption at a destination resort is very different from the domestic consumption at a municipality. The occupancy at a destination resort will typically be high during the summer season, relatively high during the winter weekends or holidays, and very low the rest of the time. Water use varies significantly between weekends and weekdays, between the seasons of the year, and even during the hours of the day.



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Sewage at Eagle Crest is collected in a community sewer system, treated, and discharged in a subsurface drainfield. The sewage drainfield represents a recharge to the groundwater system. In the Deschutes Basin Groundwater Study, the recharge from sewage drainfields was considered to offset the consumptive use of groundwater. We have again utilized the existing resort units to estimate the average annual volume of sewage.

Our historical records at Eagle Crest demonstrate that a typical residential unit at Eagle Crest will require 0.28 acre feet of water from the domestic water supply system each year. This consumption is offset by a sewage contribution of 0.15 cubic feet. The net consumptive use is 0.13 acre feet per year.

At Eagle Crest III, the 900 proposed residential units are expected to result in a total consumptive use, at full buildout, of 115 acre feet. This net consumptive use of the groundwater withdrawal should be mitigated, proportionally to buildout of the resort expansion, to prevent impacts on surface water flows in the Deschutes basin.

We recognize that water consumption will vary from year to year and from neighborhood to neighborhood. Our calculations provide an estimate only. Actual consumption at Eagle Crest III can be measured accurately and adjustments made as the resort develops.

### Groundwater Mitigation Concept

The Oregon Water Resources Department has determined from an extended groundwater study in the Deschutes basin that significant groundwater is available. Groundwater in the Deschutes basin typically discharges to the Deschutes River in the general vicinity of Lake Billy Chinook. Because of this connection between the groundwater and the surface water, and because all surface water rights are not met in the lower Deschutes River, groundwater withdrawals require some mitigation.

The Oregon Water Resources Department established a Deschutes Basin Task Force to evaluate water supplies, establish a reliable source of water for users in the basin, and to develop a mitigation plan to accommodate groundwater withdrawals in the Deschutes Basin. A task force has been formed and is currently operating effectively. While the Deschutes Basin Task Force develops its findings and recommendations on a long-term water supply for the basin, water right permit applications have been placed on administrative hold. Once the work of the Task Force is completed, then regional-wide mitigation should be made available to users throughout the Deschutes Basin, and pending or new appropriation applications can be processed.

Eagle Crest proposes mitigation for the total consumptive use of groundwater at the proposed resort expansion project. Eagle Crest proposes a mitigation package that includes the regional mitigation from the Deschutes Basin Task Force, but also offers dedication of irrigation rights to an instream use for a portion of the total mitigation. This combination assures an immediate and effective mitigation to cover the immediate water needs of Eagle Crest. Regional mitigation, to be identified by the Deschutes River Task Force, can then be utilized for the remainder of the Eagle Crest appropriation.

The middle reach of the Deschutes River immediately below Bend, may very well have the greatest need for surface water mitigation. Eagle Crest proposes to dedicate surface water to an instream use, below the City of Bend, as mitigation for a groundwater withdrawal. This proposed mitigation should have the greatest beneficial effect on the Deschutes River because it adds water in the lowest flow section of the river and adds water that can subsequently be stored at Lake Billy Chinook.

Eagle Crest will not consume any appreciable volume of water over the next few years, because of the land use approval schedule and initial construction. Water consumption of Eagle Crest will grow slowly as residences are built and homes occupied. Based upon our experiences at the existing resort, we would expect 10 to 20 years to approach full buildout of the resort. For the purposes of this mitigation, we have assumed residential building construction would start in the year 2000 and we have assumed the expansion project would approach full buildout 10 years later. We propose that the dedication of surface water to an instream use be implemented within one year after OWRD issuance of the groundwater permit, to assure gallon for gallon mitigation for the near-term development of the resort. Likely, the mitigation will exceed the actual consumption based upon this schedule. The Eagle Crest groundwater appropriation will be limited to the amount mitigated. As the Deschutes Basin Task Force completes their work, Eagle Crest will have the right to choose the regional task force mitigation or to dedicate additional instream rights.

**Water Right Transfer To An Instream Lease**

Eagle Crest, Inc. owns a Swalley Irrigation District water right under Certificates No. 29054 and 29056. The water right is currently utilized to irrigate a golf course and grounds on a portion of the existing resort. Eagle Crest proposes to transfer the appropriate acreage of the existing Swalley Irrigation water right to offset a portion of the consumptive use of water on the expansion project, on a gallon for gallon basis.

The following diversion rates and schedules are specified in the referenced Swalley Irrigation District permit:

275,24	61	➤ April 1 to April 30 and October 1 to November 1:	4524	.007	.012 CFS/ACRE	7755	61	472,200
174,400	30	➤ May 1 to May 14 and September 15 to September 30:	816	.009	.016 CFS/ACRE	10,340	30	310,200
1,351,411	123	➤ May 15 to September 14:	15,987	.017	.030 CFS/ACRE	19,378	123	2,847,24
1,801,845		➤ TOTAL:			.058 CFS/ACRE			3,167,979

These diversion rates include a 43% canal transmission loss. Excluding the canal transmission loss, results in a diversion rate of 0.406 cfs/acre. The OWRD special order for the Swalley Irrigation District rights further describes a maximum diversion of 9.56 acre-feet for each acre irrigated, again including the canal conveyance loss. The total diversion is equivalent to 6.685 acre-feet for each acre irrigated, excluding the canal conveyance loss.

$37,475 \text{ GAL} \div 1,000,000 \text{ GAL} = 0.037475 \text{ CFS/ACRE}$

Eagle Crest, Inc. proposes to dedicate 8.6 acres of the Swalley Irrigation District right to an instream use to mitigate approximately one-half of the estimated total consumptive use of water at Eagle Crest III. Eagle Crest is proposing to dry 8.6 acres of grounds that are currently irrigated, and transfer those water rights to an instream use for mitigation.

$33,121,700 \div 1,500,000 \text{ GAL} = 21.2$

The regional mitigation strategy for the Deschutes Basin, currently being developed by the Deschutes Basin Task Force, will likely be accepted by Eagle Crest to mitigate any remaining consumptive use. However, Eagle Crest reserves the right to either participate in the regional mitigation or deliver additional acres of the Swalley Irrigation District right, to provide the needed mitigation.

**Summary**

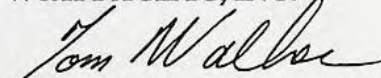
In summary, Eagle Crest is proposing a 480 acre destination resort development. A new groundwater well is required to serve that proposed development. Because groundwater and surface water are connected in the Deschutes basin and surface water rights are not met, then mitigation is required to offset potential surface water impacts. Eagle Crest has calculated the estimated total consumptive use of groundwater at the proposed development project and is prepared to mitigate the withdrawal by dedicating surface water irrigation rights to an instream use and/or participating in the regional mitigation solution being developed by the Deschutes Basin Task Force.

The Swalley Irrigation water rights will remain in the Deschutes River, rather than being withdrawn at the City of Bend. This mitigation will provide a significant benefit to the middle reach of the Deschutes River, which has historically experienced low summer time flows. Mitigation in the middle reach of the Deschutes River has been identified by the Deschutes Basin Taskforce as a very desirable outcome of the mitigation program.

Your review and approval of this mitigation plan are respectfully requested. Upon approval, we would expect that the pending Eagle Crest permit processing would proceed. Subject to the outcome of that standard water right application process, a water right permit will be issued.

Please consider my comments and recommendations and never hesitate to contact me if you have questions or need additional information.

Very Truly Yours,  
W&H PACIFIC, INC.



Thomas A. Walker, P.E, C.W.R.E.  
Vice President

Cc: Alan VanVliet