

G-12905
1043

1524E

BY ACCORDION®
Globe-Weis
Fellsington, PA 19058
Fresno, CA 93777
Kosciusko, MS 39090
14

ASSIGNED

FILE#: G 12905

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756Application No. G12905Permit No. B-11762Certificate No. 85471Stream Index, Page No. 5

Date filed

Priority

Action suspended until

Return to applicant

Date of approval 5-31-94**CONSTRUCTION**Date for beginning 5/31/95Date for completion 10/1/97

Extended to

Date for application of water 10/1/98

Extended to

PROSECUTION OF WORKForm "A" filed 6/9/95

Form "B" filed

Form "C" filed

FINAL PROOF

Blank mailed

Proof received

Date certificate issued May 8, 2009**FEES PAID**

Date	Amount	Receipt No.
5/4/92	450.00	86131
extension 9/8/97	100.00	15637
3-1-01	25.00	43400
4/3/07	125.00	86933
7-10-17	85.00	123914
	Cert. Fee	

FEES REFUNDED

Date	Amount	Check No.

ASSIGNMENTS

Date	ASSIGNED To Whom	Address	Volume	Page
2-19-01	Cline Butte Utility Co.	1140 Nutcracker Rd. Redmond, OR	8	876-77
7/10/2017	Oregon Water Utilities - Cline Butte Inc.	1230 Golden Pheasant Redmond, OR 97756		

REMARKS

A-Form 90 sent JUN 07 1995
 118 sent 6/14/95
 T-8438 & 104 (withdrawn)
 T-10492



Oregon

Kate Brown, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone (503) 986-0900

Fax (503) 986-0904

www.wrd.state.or.us

July 11, 2017

Southwest Water Company
1325 N Grand Covina, Suite 100
Covina, California 91724-4044

Reference: Application G-12905, Permit G-11762

The assignment from Cline Butte Utility Company to Oregon Water Utilities – Cline Butte, Inc. has been recorded in the records of the Water Resources Department.

The Departments records will now show Oregon Water Utilities – Cline Butte Inc. as the permit holder of record.

Our records have been changed accordingly and the original request is enclosed. Receipt number 123914 covering the recording fee is also enclosed.

A permit is not a perfected water right, and has conditions and timelines that must be satisfied prior to a Certificate of Water Right being issued. Please review the permits to be familiar with the conditions and timelines contained in the permits.

Please note that these permits require complete application of water to the proposed use by specific dates, and 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).

Sincerely,

Jerry Sauter
Water Rights Program Analyst
Water Right Services Division

Enclosure: Receipt 123914

cc: Watermaster 11
Cline Butte Utility Company
Data Center, OWRD (cover letter & request)
File



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

Request for Assignment

If for multiple rights, a separate form and fee for each right will be required.

I, Cline Butte Utility Company

(Name of Applicant / Permit / Transfer Holder / License Holder / GR Certificate of Registration)

1230 Golden Pheasant Redmond OR 97756 541-504-2305
(Mailing Address) (City) (State) (Zip) (Phone #)

- ☒ hereby assign all my interest in and to application/permit/transfer/license/GR Certificate of Registration;
- ☐ hereby assign all my interest in and to a portion of application/permit/transfer/license/GR Certificate of Registration; (You must include a map showing the portion of the application/permit/transfer/license/GR Certificate of Registration to be assigned.)
- ☐ hereby assign a portion of my interest in and to the entire application/permit/transfer/license/GR Certificate of Registration:

Application # G-12905 ; Permit # G-11762 ; Transfer # T-10929
-OR-
License # _____ ; GR Statement # _____ ; GR Certificate of Registration # _____

As filed in the office of the Water Resources Director, to:

Oregon Water Utilities - Cline Butte, Inc.
(Name of New Owner)

1230 Golden Pheasant Redmond OR 97756 541-504-2305
(Mailing Address) (City) (State) (Zip) (Phone #)

Note: If there are other owners of the property described in the Application, Permit, Transfer, License, or GR Certificate of Registration, you must provide a list of all other owners' names and mailing addresses and attach it to this form.

I hereby certify that I have notified all other owners of the property described in this Application, Permit, Transfer, License, or GR Certificate of Registration of this Request for Assignment

Witness my hand this 30th day of June, 20 14.

Applicant/Permit Holder _____

Applicant/Permit Holder _____

Simon Hallgarten
Authorized Signatory

7/10/2017
N91354

DO NOT WRITE IN THIS BOX

This certifies assignment and record change at Oregon Water Resources Department effective 8:00 a.m. on date of receipt at Salem, Oregon.
Fee receipt # 123914
For Director by Jerry Sauter, Program Analyst in Water Rights Division

The completed "Request for Assignment" form *must* be submitted to the Department along with the recording fee of \$85.

RECEIVED

JUL 10 2017

OWRD

29088

USER-ID CB-4101478

2008

Oregon Water Resources Department
October 2008 through September 2009
Monthly Water Use Form

2009

Facility →	# 6	# 7	# 8	# 9	
Report ID →	20988	20988	20988	20988	
October - 2008	13678000	668000	5887449	813660	
November - 2008	4881000	0	357307	1779380	
December - 2008	5137000	0	263808	0	
January - 2009	4413000	0	0	0	
February - 2009	3632000	0	209826	0	
March - 2009	2806000	138000	2729709	2475078	
April - 2009	22181000	261200	5229214	15301897	
May - 2009	27200000	2110500	9229332	22383520	
June - 2009	24679000	0	10136236	23066871	
July - 2009	39007000	2826000	19087021	32081969	
August - 2009	31145000	9697000	12641571	31679717	
September - 2009	26248000	2602000	9852557	28866316	
TOTAL *	209,504,000	28,307,700	75,624,036	158,448,418	

RECEIVED

APR 19 2010

WATER RESOURCES DEPT
SALEM, OREGON

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

Describe the method of measurement used: GIf used for irrigation, total number of acres irrigated: 0

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

Robert McDaniel
Signature

Manager
Title

Clive Butte Utility Co
Reporting Entity

4-15-10
Date

Robert McDaniel
Name

1230 Golden Pleasant Dr. Redmond, OR 97256
Mailing Address

541-504-2305
Phone Number
ECB # 185211

Please complete and mail to: Oregon Water Resources Department; Water Use Reporting Program;
725 Summer Street NE, Suite A; Salem, OR 97301-1266.

2008

Oregon Water Resources Department
October 2008 through September 2009
Monthly Water Use Form

29088

USER-ID EC-4101355

2009

Report ID
20988

Facility →	# 2	# 3			
Report ID →	20988	20988.			
October - 2008	6319000	104107			
November - 2008	626000	40			
December - 2008	1854000	0			
January - 2009	2097000	18173000			
February - 2009	2124000	0			
March - 2009	2805000	5941850			
April - 2009	905000	11079600			
May - 2009	11529000	2322800			
June - 2009	15385000	1431600			
July - 2009	18787000	7545200			
August - 2009	18180000	12863200			
September - 2009	16562000	4256000			
TOTAL *	92,173,000	63,417,397			

RECEIVED

APR 19 2010

WATER RESOURCES DEPT
SALEM, OREGON

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

Describe the method of measurement used: GIf used for irrigation, total number of acres irrigated: 0

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

Robert M. Daniel
Signature
Robert M. Daniel
Name

Manager
Title
1230 Golden Pheasant Dr.
Mailing Address

Eagle Crest Master Assoc
Reporting Entity
Redmond OR 97756

4-15-10
Date
531-504-2205
Phone Number
cell 189211

Please complete and mail to: Oregon Water Resources Department; Water Use Reporting Program;
725 Summer Street NE, Suite A; Salem, OR 97301-1266.



April 2, 2004

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

RECEIVED

APR 07 2004

WATER RESOURCES DEPT
SALEM, OREGON

Ms. Lisa Juul
Oregon Water Resources Department
725 Summer St. N.E., Suite A
Salem, OR 97301-2430

**RE: Eagle Crest Resort
Cline Butte Utility Company
OWRD Permit No. G - 11762
OWRD Permit No. G - 12905
WHP File No. 31250.1001**

Dear: Lisa

Thank you very much for your review and assistance on water rights for the Eagle Crest Resort. An extension request is pending for Permit No. G - 11762, however you recommend a final proof survey. Cline Butte Utility Company has authorized me to proceed with the final proof survey, as you recommend.

The extension application was filed for Permit No. G - 11762 because the quasi-municipal water distribution system is not fully developed. Wells have generally been constructed to their full capacity, although the ultimate water consumption has not been accomplished because the resort is still developing and growing.

You carefully considered our situation with your colleagues and determined a final proof survey is appropriate and the full capacity of the wells can be claimed in a final proof survey because the source facilities have been operated at full design capacity. Accordingly, Cline Butte Utility Company authorized me to proceed with the final proof survey.

The capacities of all source facilities will be confirmed and compared with permit allocations in the final proof survey process. Until the final proof survey is completed and confirmed, Cline Butte Utility Company, Inc. will maintain their pending extension application to assure no jeopardy to the water right.

Thank you again for your significant assistance. We will forward a final proof survey within the next few months or report any related questions or issues. Again, we appreciate your assistance and invite your questions and comments at any time.

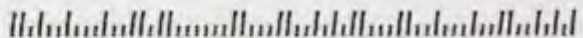
Sincerely,
W&H Pacific, Inc.

Thomas A. Walker, P.E., CWRE

Cc: Alan VanVliet



920 SW Emkay, Suite C100
Bend, Oregon 97702-1041



October 12, 1993

Boby Cannon
2163 South Hwy 97
Redmond, OR 97756

RE: Eagle Ridge Development Corporation
G-12905

Dear Mr. Cannon:

We have received your letter requesting information concerning the above-listed application, and pre- and post-1994 ground water table studies in the Deschutes Basin.

Eagle Ridge Development Corporation has submitted a Hydrogeologic Study for Eagle Crest Phase II. This report was prepared in 1992 by David J. Newton Associates, Inc. A Supplemental Findings report dated September 30, 1993 has also been submitted. These reports are contained within the application file at the Water Resources Department and are available for public review.

Our Groundwater/Hydrology Section has gathered the enclosed groundwater references for studies completed in the Middle Deschutes Basin.

If you have additional concerns, please call my secretary, Darlene Castle, or me.

Sincerely,

Reed Marbut

A. REED MARBUT
Water Rights/Adjudication Division

ARM/dpc
Enclosure

cc: Martha Pagel
John Borden
Fred Lissner
Bob Main



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

50621-9

October 5, 1993

A BRIEF DESCRIPTION OF THE GROUND WATER RESOURCES OF THE
DESCHUTES RIVER BASIN, OREGON OREGON WATER RESOURCES
DEPARTMENT UNPUBLISHED REPORT SCEVA, JACK E. 1960

GROUND WATER RESOURCES OF THE CENTRAL DESCHUTES BASIN
BUREAU OF RECLAMATION REPORT FRINK, JOHN W. 1968

LIQUID WASTE DISPOSAL IN THE LAVA TERRANE OF CENTRAL OREGON
FEDERAL WATER POLLUTION CONTROL ADMINISTRATION, NORTHWEST
REGION, PACIFIC NORTHWEST WATER LABORATORY SCEVA, JACK E. 1968

DESCHUTES COUNTY COMPREHENSIVE PLAN RESOURCE ELEMENT
DESCHUTES COUNTY COMPREHENSIVE PLAN DESCHUTES COUNTY
PLANNING DEPARTMENT 1979

HYDROLOGIC EVALUATION FOR INFILTRATION DISPOSAL OF TREATED
EFFLUENT DESIGN DEFINITION MEMORANDUM NO. 13 BECON
ENGINEERING 1981

HYDROGEOLOGIC STUDY EAGLE CREST PHASE II REPORT TO EAGLE
CREST PARTNERS LTD NEWTON ASSOCIATES 1992

TECHNICAL REVIEW OF EAGLE CREST, PHASE II HYDROGEOLOGIC STUDY
REPORT TO DESCHUTES COUNTY COMMUNITY PLANNING DEPARTMENT
GONTHIER, JOSEPH B 1992

TECHNICAL RECONNAISSANCE REPORT SURVEY OF GROUNDWATER
RESOURCES, UPPER DESCHUTES RIVER BASIN, OREGON BUREAU OF
RECLAMATION REPORT KING, GARY 1992

Note: Additional data exist that have not been summarized in published reports.

mm map
Boby Cannon
2163 S HWY 97
REDMOND OR 97756

Martha O. Pagel, Dir.
OREGON DEPT. OF WATER RESOURCES
3850 PORTLAND RD NE
SALEM OR 97310

9/16 -

G-12903
cc: F. Lissner

J. Barden

S. Brown

TICKET 9123
RECEIVED

SEP - 9 1993

WATER RESOURCES DEPT.
SALEM, OREGON

September 4, 1993

Dear Martha Pagel:

Recently I read an Environmental Assessment Report (EA NO. OR-056-3-88) concerning the proposed 300,000 gallon reservoir for the Eagle Crest Resort expansion project.

One paragraph stated that "The Oregon Dept. of Water Resources has appropriated rights for irrigation purposes of the golf course. At the present time, a decision by the state, for the appropriation of the domestic water right is pending."

Since, according to the 1993-'94 Oregon Blue Book, the District 11 position of the OR DEPT. OF WATER RESOURCES is vacant, I was hoping you could answer my queries about the Ground Water Table Studies in the Deschutes County area.

Have there been any studies done since 1984 of the Ground Water Table? And were there any done prior to 1984 that can be used as a reference for the impact of the Eagle Crest Development on the Ground Water in the local Redmond-Tumalo area?

I am especially interested in what information was used by the OREGON DEPARTMENT OF WATER RESOURCES to determine whether or not to appropriate water for the second golf course at the Eagle Crest Destination Resort.

If you can answer my concerns or direct me to the proper agency or personnel who can I would appreciate your time and concern in this matter.

sincerely,
Boby Cannon

Boby Cannon

2163 S HWY 97
REDMOND OR 97756



TRANSMITTAL

To: Ms. Lisa Juul
Company: Oregon Water Resources Department
Address: 725 Summer Street NE, Suite A
City/State: Salem, OR 97301-1271
Phone:
Fax:

Date: June 21, 2004
Project Number: 31250
Project Name: Eagle Crest
Re: Cline Butte Utility Company
Permit G-11762
OWRD File #: G-12905

RECEIVED

JUN 22 2004

WATER RESOURCES DEPT
SALEM, OREGON

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

Phone: (541) 388-4255

Fax: (541) 388-4229

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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

Ric Kuss

Copies	Description
1	Final Proof Survey and Report For Permit G-11762

Lisa,

Thank you for your assistance on the Eagle Crest water rights. Please consider the attached report and contact me with your questions and comments.

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

Washington ♦ Oregon ♦ Idaho



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

April 3, 2003

Oregon Water Resources Department
Technical Services-Groundwater Section
158 12th Street NE
Salem, OR 97301-4172

RECEIVED

APR 07 2003

WATER RESOURCES DEPT
SALEM, OREGON

**RE: Eagle Crest Resort
Groundwater Wells
Static Water Level Reporting
WHP File # 30036
OWRD Application No. G-12905
OWRD Permit No. G-11762**

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 your review and use. In addition, a summary of water consumption for each well is attached.

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 addition, we have checked the measurements in some wells with a second air gauge reading. 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 March 17, 2003.

The following table summarizes our static water level measurements and significant 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	243'	6 hrs
ECI Well #3	Eagle Crest Resort	5310/8050	290'	8/18/89	12"	Crawford Well Drilling	G-10530 G-11387	242'	24 hrs
ECII Well #6	Eagle Crest Dev. Corp.	36697	800'	2/20/92	14"	STACO	G-11762 G-12905	523'	8hrs

whpacific.com

planners

surveyors

engineers

landscape architects

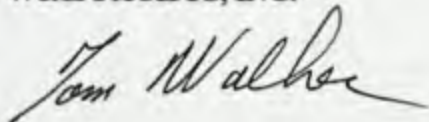
ECII Well #7	Eagle Crest Dev. Corp.	34267	800'	10/11/91	6"	STACO	G-11762 G-12905	523'	8 hrs
ECII Well #8	Eagle Crest	89252	600'	4/22/98	14"	STACO	G-11762 G-12905	314'	72 hrs

Well #9 has been constructed, but not yet put into production. We anticipate completion of well house and pmp improvements over the next few months.

Please consider my comments and never hesitate to contact me if you have questions or need additional information. To the best of my knowledge and ability, 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.

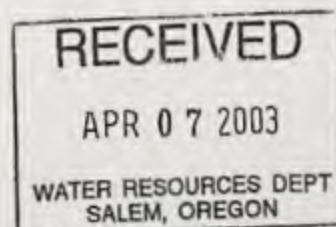
Very Truly Yours,

W&H PACIFIC, INC.



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

Cc: Alan VanVliet



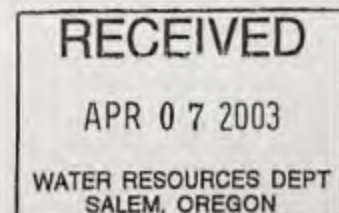
**EAGLE CREST RESORT
SUMMARY OF GROUNDWATER CONSUMPTION
FOR CALENDAR YEAR 2002
OWRD Permit No. G-11762 (File No.: G-12905)**

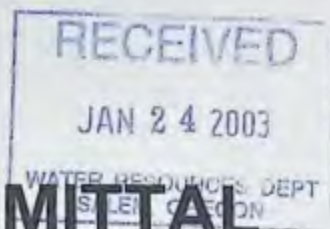
TOTAL GALLONS

Month	Well #2	Well #3	*Well #6	*Well #7	*Well #8
January	1,743,600	395,400	1,604,000	0	0
February	1,735,500	500	1,459,000	590,600	0
March	2,817,100	3,689,800	8,753,000	190,400	1,858,448
April	6,806,900	2,182,100	19,587,000	0	6,777,932
May	12,869,000	6,503,700	30,982,000	16,864,000	13,165,006
June	12,340,700	12,537,200	32,584,000	9,782,500	16,485,753
July	14,395,000	14,373,700	23,699,000	11,636,200	29,000,998
August	14,380,500	14,388,200	19,562,000	8,747,400	26,350,709
September	15,321,000	5,511,400	21,068,000	10,076,844	9,984,061
October	9,872,000	319,000	16,717,000	0	5,562,309
November	1,636,000	0	5,641,000	0	337,641
December	1,166,000	0	2,772,000	0	161,748
TOTALS:	95,083,300	59,901,000	184,428,000	57,887,944	109,684,605

*Note: Total well production is reported for Eagle Crest II Wells #6, #7, and #8. Water use is appropriated under Permit G-11762 and G-11313.

816567.009/2ec030701.doc



**TRANSMITTAL**

To:	Ms. Lisa J. Juul Water Rights Specialist	Date:	January 23, 2003
Company:	Oregon Water Resources Department	Project Number:	30036
Address:	158 12 th Street NE	Project Name:	Eagle Crest Resort
City/State:	Salem, OR 97301-4172	Re:	Cline Butte Utility Company Water Right Extension Application Permit #: G-11762
Phone:			
Fax:			

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

Phone: (541) 388-4255

Fax: (541) 388-4229

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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	Executed Application For Extension of Time
1	Burden of Proof Statement in Support of the Extension of Time Application
1	Well Logs, Permit, Development Maps, and Domestic Water Supply System Master Plan

Lisa,

Thank you for your assistance on the pending water right extension application for the Eagle Crest resort. As noted in our initial extension application from 1997 and subsequent correspondence, the referenced water right is critically important to Eagle Crest. This application is intended to meet all needs for an extension and protect the Eagle Crest water right. Please contact me immediately if you have any questions or concerns.

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

Washington ♦ Oregon ♦ Idaho



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

May 13, 1999

RECEIVED
MAY 18 1999
WATER RESOURCES DEPT.
SALEM, OREGON

Mr. Dallas Miller
Water Rights Specialist
Oregon Water Resources Department
Commerce Building
158 12th Street NE
Salem, OR 97310-0210

RE: Eagle Ridge Development Corporation
OWRD File No. G-12905
WHP File No. 526-0105

Dear Dallas:

Thank you for your review of the Eagle Crest extension request for the referenced quasimunicipal permit. I have compiled responses to your questions and clarified the status of our source development. Your assistance and clarifications have been very helpful.

Eagle Crest has constructed source facilities, with a capacity equal to that allowed under the permit. We do not however utilize that full capacity on a regular basis. That full capacity is intended to assure an adequate flow rate in the case of wild fire or similar emergency. I have utilized our August 1998 total well water consumption to estimate our current use. In August, only two of our three wells were pumped. The quasimunicipal consumption is equivalent to ± 540 gpm, averaged over an entire month. That flow rate is approximately 40% of the flow rate authorized by the referenced permit.

Based upon these calculations and your clarifying correspondence and phone comments, it appears that Eagle Crest should proceed with the extension application. Although source facilities have been constructed, we have not yet beneficially utilized that capacity on a regular basis. Also, the water distribution system has not yet been extended to all lands within the service area.

Thank you again for your significant assistance. Please never hesitate to contact me if you have questions or need additional information.

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

51299taw.doc



RECEIVED

NOV 27 1998

WATER RESOURCES DEPT.
SALEM, OREGON

APPLICATION FOR EXTENSION OF TIME

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Eagle Ridge Development Corporation

<u>P.O. Box 1215</u>	NAME <u>Redmond</u>	<u>OR</u>	<u>97756</u>	<u>541-923-0807</u>
ADDRESS	CITY	STATE	ZIP	PHONE

record owner of application No. G-12905 permit No. G-11762, do hereby request that the time in which to:

☒ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1997, be extended to October 1, 2007, and/or the time in which to

☒ accomplish beneficial use of water to the full extent under the terms of the permit, which time, now expires on October 1, 1998, be extended to October 1, 2008.

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

1-Did water system construction/well drilling begin within the time specified in the permit [yes/no]? Yes

2-Have you put any water to use under this permit [yes/no]? Yes
If yes, has that use been made consistent with the terms and conditions of the permit [yes/no]? Yes If no, please explain.
Which terms and/or conditions have not been completely fulfilled at this time. _____

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

(a) within past year Constructed a third well, including a 250 HP well pump, extended the water distribution system to serve new development, and partially completed a second 18-hole golf course.

(b) prior to this past year Constructed and operated two wells, a 300,000 gallon reservoir, miles of distribution piping and developed hundreds of residential lots/units.

• and have accomplished beneficial use of water to the extent of (amount of water used or acres irrigated) Approximately 1350 gpm have been put to beneficial use on a portion of the proposed development.

Approximately 200 acres have been irrigated.

4-Cost of project to date +\$1.5 million Projected cost for completion of project +\$3.0 million.

5-Have there been any unforeseen events which delayed development of water system? Eagle Crest anticipated phased development of the resort and a relatively long timeframe for perfection of the permit.

6-Have there been any significant government requirements that have delayed the completion of construction or application of water ? [please explain] _____

No significant government requirement has delayed the completion of construction or application of water.

7-What reasons was the project not completed within permit time limits ? The original permit time limits were not adequate to allow completion of the phased development for a resort project of this magnitude. The development must also comply with market demand, which is beyond the control of Eagle Crest.

8-Has there been any change in the demand for water or power since permit was issued? (please explain) _____
Eagle Crest does not believe the demand for water or power has changed significantly since 1994, when the permit was issued.

9-Has there been any change in the market for water or power since the permit was issued? (please explain) _____
Eagle Crest does not believe the market for water or power has changed significantly since 1994, when the permit was issued.

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NOV 27 1998

WATER RESOURCES DEPT.
SALEM, OREGON

10-Will the income or use from this project provide reasonable returns against the investment in this project? (please explain)
Yes - Sales incomes from residential development are critical to the continued success of the Eagle Crest Resort.

11-If the extension request is denied, is the current level of water use economically feasible? (please explain)

No - Continued expansion of the Resort, as contemplated in approved masterplans is necessary to recover capital investments in the development.

12-Is there an alternative source of water available [yes/no please explain]? No - All surface waters in the Deschutes Basin have been fully appropriated and no municipal supplies are available.

13-Has the use of water under the permit caused an adverse impact on the surface/groundwater resource in the area ? (please explain)

No - Annual groundwater level measurements demonstrate no decline. An on-going USGS study of the Deschutes basin and OWRD findings at the time this permit was issued indicate no measurable impact on surface waters.

All items must be completed or the application will be returned. Please feel free to provide the Department with any additional information you might have that would aid us in making our decision. Please use an additional sheet of paper, if needed.

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

Signature

William D. Lyche

MAIL COMPLETED APPLICATION TO:
WATER RIGHT PERMIT EXTENSIONS
WATER RESOURCES
158 12TH ST NE
SALEM, OREGON 97310

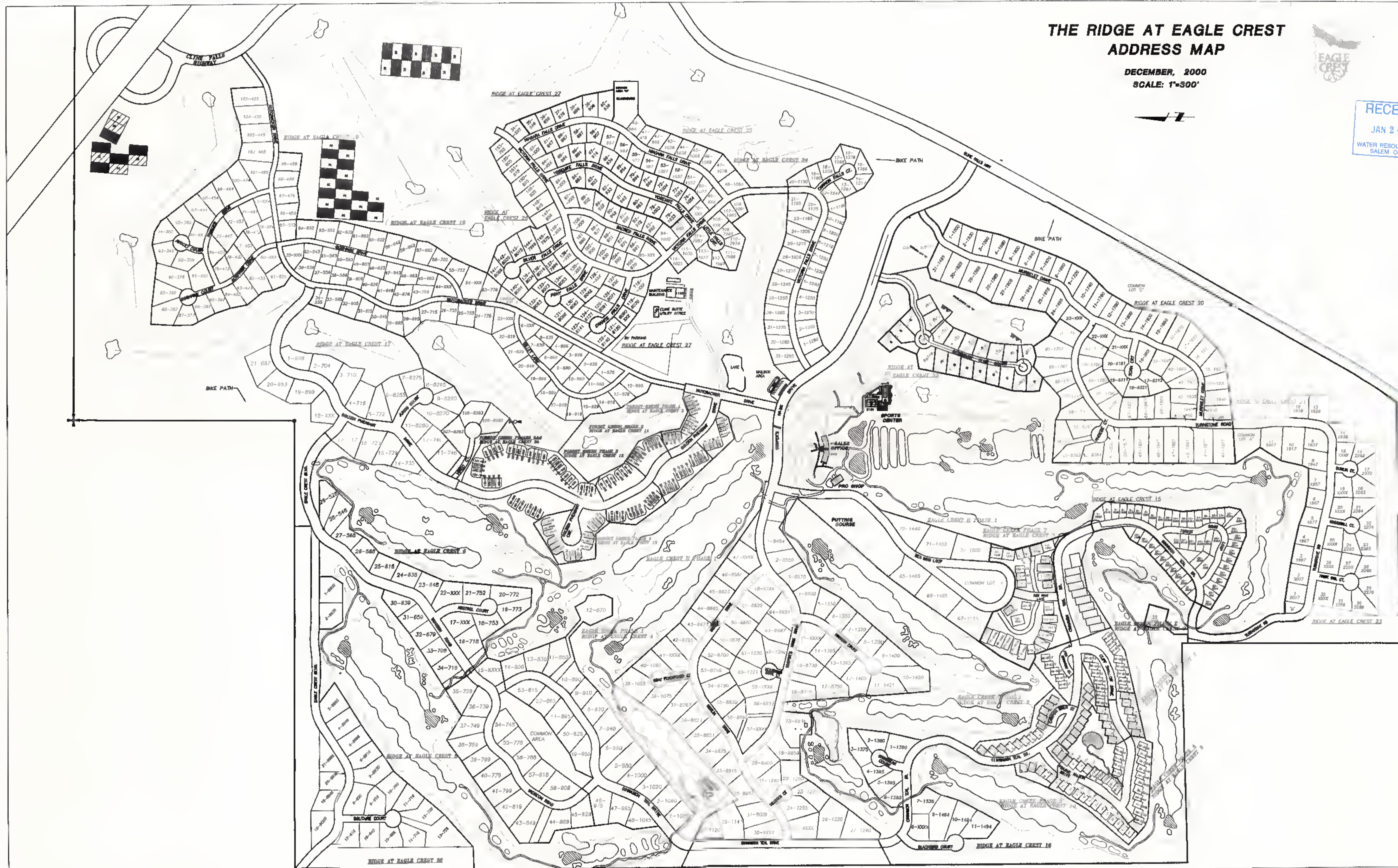
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SALEM, OREGON



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JAN 24 2003
WATER RESOURCES DEPT
SALEM OREGON





W&H PACIFIC

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

File G 12905

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OCT 01 2001

WATER RESOURCES DEPT.
SALEM, OREGON

September 28, 2001

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310

**RE: Eagle Ridge Development Corporation
Groundwater Permit No. G-11762**

Dear Dallas:

The referenced groundwater permit for the Eagle Crest Resort specifies deadlines for completion of construction and complete application of water to a beneficial use. Eagle Crest has submitted multiple extension applications, the most recent being in November 1998. You and I have had several conversations since that time and you have indicated that Eagle Crest need not take further action to preserve its water rights. Does the status of our pending permit extension application remain the same and is there anything we should do at this time to make sure the critical water right is preserved for the Eagle Crest Resort?

Eagle Crest has made significant progress in perfecting the permit, including construction and use of all wells. A significant percentage of the water distribution system has also been completed through the resort. However, additional time is required to allow the build out of homes and full utilization of the water supply. The referenced water right is critical to the resort operations and Eagle Crest can not jeopardize these water rights. Eagle Crest is eager to prepare any necessary forms or applications and follow-up in any appropriate manner. Unless I hear otherwise, I will conclude our 1998 extension application adequately protects the Eagle Crest groundwater permit.

Thank you very much for your review and assistance.

Sincerely,

W&H PACIFIC, INC.

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

Cc: Alan VanVliet

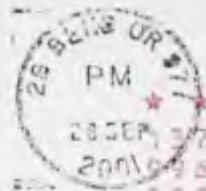
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A Member of The IT Group

920 SW Emkay, Suite C100
Bend, Oregon 97702-1041



MAILED FROM ZIP CODE 97701

Mr. Dallas Miller
OWRD
158 12th Street NE
Salem, OR 97310

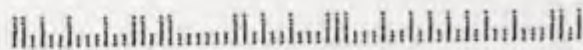
whpacific.com

planners

surveyors

engineers

landscape architects





FAX

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MAR 01 2001

WATER RESOURCES DEPT.
SALEM, OREGON

To: Mr. Dallas Miller
Company: Oregon Water Resources Department
Address: 158 12th Street NE
City/State: Salem, OR 97301-4172
Phone:
Fax:

Date: February 27, 2001
Project Number: 816567.009
Project Name: Eagle Crest II and III
Re: Water Right Assignments

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:

Copies	Description
1	W & H Pacific Check In The Amount of \$50.00 for Permit Assignment Fees
1	Your Letter of February 20, 2001

Dallas,

Thanks very much for your review and comments. I apologize for forgetting the fees and hope I did not create too much extra work for you. Please never hesitate to call with any questions or comments.

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

Washington ♦ Oregon ♦ Idaho



Oregon

John A. Kitzhaber, M.D., Governor

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MAR 01 2001

WATER RESOURCES DEPT.
SALEM, OREGON

Water Resources Department

Commerce Building

158 12th Street NE

Salem, OR 97301-4172

(503) 378-3739

FAX (503) 378-8130

February 20, 2001

THOMAS WALKER, C.W.R.E.
920 SW EMKAY, SUITE C100
BEND, OR 97702-1041

RECEIVED

FEB 21 2001

W & H PALLIN

REFERENCE: Files G 12905, G 14857, Permits G 11762, G 13856

Dear Mr. Walker:

Regarding your requests to assign the permits we need the required fees before we can process them. The forms appear to be in order otherwise.

As the form points out there is a \$25 fee for each assignment, therefore a total of \$50 must be submitted before we can process the requests.

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

Sincerely,

Dallas Miller

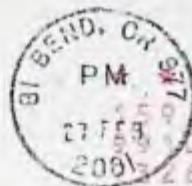
Water Rights Specialist

cc: Watermaster, District 11



PACIFIC

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



Mr. Dallas Miller

Oregon Water Resources Department

158 12th Street NE

Salem, OR 97301-4172



97301X4172





Oregon

John A. Kitzhaber, M.D., Governor

Water Resources Department

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

February 20, 2001

THOMAS WALKER, C.W.R.E.
920 SW EMKAY, SUITE C100
BEND, OR 97702-1041

REFERENCE: Files G 12905, G 14857, Permits G 11762, G 13856

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

Sincerely,

Dallas Miller

Water Rights Specialist

cc: Watermaster, District 11



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FEB 15 2001

WATER RESOURCES DEPT.
SALEM, OREGON

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

February 13, 2001

Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

RE: Eagle Crest
Application G-14857
Application G-12905
Permit Assignments
WHP File No. 816668.003

Dear Gentlemen/Ladies:

I have enclosed the original executed permit assignment forms for two groundwater rights at the Eagle Crest Resort. In each case, the rights are proposed to be assigned to the Cline Butte Utility Company. Your review and assistance in processing the assignment forms are respectfully requested.

Please consider my request, the enclosed forms, and never hesitate to contact me if you have questions or require additional information.

Sincerely,

W&H PACIFIC, INC.

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

CC: Alan VanVliet
Karen Smith

021301tw.doc



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

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OCT 18 2000

WATER RESOURCES DEPT.
SALEM, OREGON

October 16, 2000

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310

RE: Eagle Ridge Development Corpor.
Groundwater Permit No. G-11762
OWRD File No. T-12905
WHP File No. 526-0105

*Phoned
Tom Walker
Explained NOT
process EXT.
FOR Deschutes
without T-J*

DSM

extension # G 12905

Dear Dallas:

The referenced groundwater permit for the Eagle Crest Resort specifies deadlines for completion of construction and complete application of water to a beneficial use. Eagle Crest has submitted multiple extension applications, with the most recent being in November 1998. We provided additional information on the extension application in May of 1999, but we have received no response on the pending extension application. Please advise me if Eagle Crest needs to take any additional action to protect the groundwater permit.

You and I spoke briefly in October of 1999 about the pending Eagle Crest extension application. You indicated the Water Resources Department was working through a back log of extension applications and no further action was required. The referenced water right is critical to the resort operations and Eagle Crest can not jeopardize these water rights. Eagle Crest is eager to prepare any necessary forms or applications and follow-up in any appropriate manner. Unless I hear otherwise, I will conclude our 1998 extension application adequately protects the Eagle Crest groundwater permit, until some notice of extension processing is received.

Thank you very much for your review and assistance.

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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OCT 18 2000

WATER RESOURCES DEPT.
SALEM, OREGON

October 16, 2000

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310

**RE: Eagle Ridge Development Corporation
Groundwater Permit No. G-11762
OWRD File No. T-12905
WHP File No. 526-0105**

Application # G 12905

Dear Dallas:

The referenced groundwater permit for the Eagle Crest Resort specifies deadlines for completion of construction and complete application of water to a beneficial use. Eagle Crest has submitted multiple extension applications, with the most recent being in November 1998. We provided additional information on the extension application in May of 1999, but we have received no response on the pending extension application. Please advise me if Eagle Crest needs to take any additional action to protect the groundwater permit.

You and I spoke briefly in October of 1999 about the pending Eagle Crest extension application. You indicated the Water Resources Department was working through a back log of extension applications and no further action was required. The referenced water right is critical to the resort operations and Eagle Crest can not jeopardize these water rights. Eagle Crest is eager to prepare any necessary forms or applications and follow-up in any appropriate manner. Unless I hear otherwise, I will conclude our 1998 extension application adequately protects the Eagle Crest groundwater permit, until some notice of extension processing is received.

Thank you very much for your review and assistance.

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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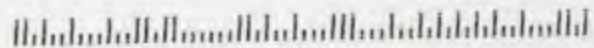
PACIFIC

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



*Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310*

97301X4172



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

APR 17 2000

WATER RESOURCES DEPT.
SALEM, OREGON

April 13, 2000

Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210**RE: Eagle Ridge Development Corporation**
Groundwater Permit No's. G-10530, G-10957, G-11762
OWRD Application No. G-11387, G-11824, G-12905
WHP File No. 526-0105

Dear Gentlemen/Ladies:

Groundwater Permit G-11762 stipulates recording of static water levels on an annual basis. I have compiled static water level readings for your review and use. In addition, a summary of water consumption for each well is attached.

As in past years, we have provided static water level measurements on multiple wells at Eagle Crest. Water level readings have been obtained from existing airlines and pressure gages at each well. In addition, we have checked these measurements in some wells with a second air gauge reading. All static water level measurements were obtained on March 31, 2000. In all cases, static water level measurements are taken from the top of the existing well casing. Static water level measurements in all wells are similar to conditions reported in past years.

Eagle Crest
Groundwater Well Static Water Level Readings
March 31, 2000

Eagle Crest Well Designation	OWRD Permit Number	Casing Diameter	Well Depth	Date Drilled	Static Water Level Measurement	Estimated Time Since the Pump Last Ran
EC I Well #2	G-10530	10"	330'	1979	247 Ft	30 minutes
EC I Well #3	G-10957	12"	256'	1989	246 Ft	60 minutes
EC II Well #6	G-11762	6"	800'	1991	523 Ft	3 weeks
EC II Well #7	G-11762	14"	800'	1992	523 Ft	3 weeks
EC II Well #8	G-11762	14"	600'	1998	315 Ft	12 hours

Please consider my comments and never hesitate to contact me if you have questions or need additional information. The intent of this submittal is to meet all reporting obligations for Eagle Crest water rights. The water rights are critical to the operations at the Eagle Crest Destination Resort and we can not jeopardize water rights in any way. Thank you for your review and assistance.

Very Truly Yours,
W&H PACIFIC, INC.Thomas A. Walker, P.E., C.W.R.E.
Vice President

CC: Alan VanVliet

Ric Kuss

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

Planning • Engineering • Surveying • Landscape Architecture

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W&H PACIFIC

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

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APR 17 2000

WATER RESOURCES DEPT.
SALEM, OREGON

**EAGLE CREST RESORT
SUMMARY OF GROUNDWATER CONSUMPTION
FOR CALENDAR YEAR 1999
OWRD Permit No.: G-11762 (File No.: G-12905)**

- TOTAL GALLONS -

Month	Well #2	Well #3	Well #6	Well #7	Well #8
January	851,400	2,446,200	892,000	0	0
February	3,065,400	1,800	844,000	0	0
March	6,541,200	6,073,200	8,161,000	1,724,000	647,700
April	4,829,400	3,286,800	15,021,000	0	2,195,600
May	10,832,400	1,647,000	22,288,000	982,000	5,977,200
June	14,081,400	13,037,400	35,246,000	12,971,000	13,073,000
July	13,350,600	13,390,200	32,685,000	6,821,600	7,974,300
August	13,152,600	13,024,800	22,825,000	4,414,100	7,365,600
September	12,961,800	12,965,400	23,353,000	17,673,000	6,278,400
October	11,545,200	8,213,400	16,060,000	3,974,000	3,549,600
November	3,704,400	1,800	2,082,000	0	0
December	2,214,300	1,100	1,035,000	0	0
TOTALS:	97,130,100	74,089,100	180,492,000	48,559,700	47,061,400

041300TW.XLS





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SEP 30 1999

WATER RESOURCES DEPT.
SALEM, OREGON

September 28, 1999

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310

**RE: Eagle Ridge Development Corporation
Groundwater Permit No. G-11762
OWRD File No. G-12905
WHP File No. 526-0105**

Dear Dallas:

The referenced groundwater permit for the Eagle Crest Resort specifies deadlines for completion of construction and complete application of water to a beneficial use. Eagle Crest has submitted multiple extension applications, with the most recent being in November 1998. We provided additional information on May 4th, 1999 and May 13, 1999, and understood the extension application would be processed. We have received no response on the pending extension application. Does Eagle Crest need to take any additional action before October 1 of this year?

Eagle Crest can not and will not jeopardize its water rights. The referenced water right is critical to resort operations. Eagle Crest is eager to prepare any necessary forms or applications and follow-up in any appropriate manner. At this point, we are not certain of the proper action. Again, your review and comments will be greatly appreciated.

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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DEC 04 2000

WATER RESOURCES DEPT.
SALEM, OREGON

APP: 612905

USER-ID 8034

Oregon Water Resources Department
October 1999 through September 2000
Annual Water Use - Monthly Quantities Form

Facility POD-ID	Well 1 36346 OM	Well 2 36347 OM	Well 3 36348 OM		
October - 1999	0	11,545,200 G	8,213,400 G		
November - 1999	0	3,766,400 G	1,800 G		
December - 1999	0	3,623,400 G	1,800 G		
January - 2000	0	3,492,000 G	0 G		
February - 2000	0	3,268,800 G	14,400 G		
March - 2000	0	4,069,800 G	3,952,000 G		
April - 2000	0	7,947,000 G	2,104,200 G		
May - 2000	0	10,848,600 G	3,391,200 G		
June - 2000	0	12,987,000 G	6,635,800 G		
July - 2000	0	13,395,600 G	24,193,800 G		
August - 2000	0	13,395,600 G	13,461,000 G		
September - 2000	0	12,130,200 G	6,041,800 G		
TOTAL *	0 G	100,227,600 G	67,838,400 G		

* 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: flow meters 1/2 in. If use is irrigation, total number acres irrigated

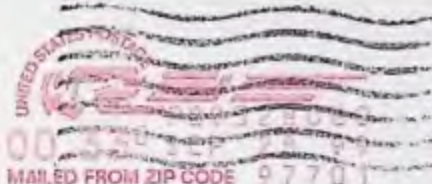
I certify this information is true and accurate to the best of my knowledge.

Alan Van Vliet
SignatureDir. of Crop.
TitleEngle Creek Master Assoc.
Reporting Entity12/1/00
DateAlan Van Vliet
Name - Please PrintPlease complete and mail to: Water Resources Department; Water Use Reporting Program;
158 12th Street NE; Salem, OR 97310-0210



PACIFIC

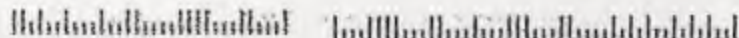
920 S.W. Emkay Dr., Suite C-100
Bend, Oregon 97702



Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310



97310X0700





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SEP 09 1999

WATER RESOURCES DEPT.
SALEM, OREGON

September 7, 1999

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

**RE: Eagle Ridge Development Corporation
Permit G-11762
OWRD Application No. G-12905
Permit Extension Application
WHP File No. 526-0105**

Dear Dallas:

On November 24, 1998, I submitted a permit extension application for the referenced Eagle Crest water right. Concurrently, I submitted an extension application for another Eagle Crest irrigation right. The Eagle Crest irrigation right has been processed and the extension granted. I have not however received any notices nor indications on the requested extension for Permit G-11762.

I am eager to provide additional information or assist you in any way possible in the consideration of our permit extension. Please let me know if there is anything I can do to help in this matter. Also, a quick status report would be very helpful for Eagle Crest.

Thank you very much for your continuing assistance.

Very Truly Yours,

W&H PACIFIC, INC.

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

Cc: Alan VanVliet

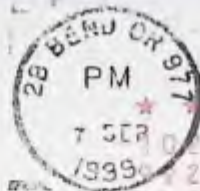
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PACIFIC

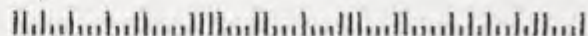
920 S.W. Emkay Dr., Suite C-100
Bend, Oregon 97702



MAILED FROM ZIP CODE 97701

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

97310=0700



X-Sender: zwartmj@mailhub.wrd.state.or.us
X-Mailer: QUALCOMM Windows Eudora Light Version 3.0.3 (32)
Date: Thu, 10 Dec 1998 13:29:53 -0800
To: Matthew Gerbrandt <Matthew.K.Gerbrandt@wrд.state.or.us>
From: Mike Zwart <Mike.J.ZWART@wrд.state.or.us>
Subject: Re: Permit Requirement

Matt,

This permittee has been submitting the required water level measurements.

Mike.

At 04:32 PM 12/9/98 -0800, you wrote:

>
>
>Mike,
>
>Related to extension requests and mandatory permittee information submittals:
>
>The permittee for permit G-11762, application file G-12905 was, according to
>my review, to have submitted a static water level measurement no later than
>April 15, 1995. Please let me know by email whether you have evidence of
>any such information being submitted to the Department.
>
>Thank you very much,
>
>Matt

>=====

>Matthew Gerbrandt
>Water Rights Information Group
>Oregon Water Resources Department
>158 12th ST NE, Salem Oregon 97310
>=====

>=====

>
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>
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Michael J. Zwart, Hydrogeologist (503)378-8455 ext. 207
Oregon Water Resources Department 1-800-624-3199 (in state)
158 12th Street NE Fax: (503)378-2496
Salem, OR 97310-0210 e-mail: Mike.J.ZWART@wrд.state.or.us



Oregon

John A. Kitzhaber, M.D., Governor

October 29, 1998

Water Resources Department

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

FILE#: G 12905

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756

Dear Water Right Permit Extension Applicant:

The Water Resources Commission has adopted new administrative rules that govern the processing of permit extension requests. New rules were necessary to make the permit extension process consistent with advice received from the Attorney General's office last summer. Many permit holders held their extension requests until the new rules are in place. Because of the Attorney General's advice, extensions will no longer be limited to one year in length for most permits and five years for municipalities and irrigation districts. You should request to extend your permit for the amount of time necessary to fully complete your project and put the water to beneficial use. Should the permit extension be approved, it is the Department's expectation that it will be the last extension granted.

In order to help staff to complete the processing of your extension application, we will need you to fill out the enclosed form. The new rules require that the Department consider this information when determining whether or not to approve an extension request. It is important for you to complete a response to all items on the form. If additional space is needed for your responses, please use a separate sheet of paper.

Please send the completed form at your earliest convenience to the following address:

Dallas Miller
Water Right Permit Extensions
Water Resources Department
158 12th Street NE
Salem, Oregon 97310

I would be happy to send you a copy of the new permit extension rules, upon request. If you have any questions, please contact me at 1-800-624-3199 extension 272. If I am not available, you may contact either Pat Lee (ext. 276) or Dwight French (ext 268).

Sincerely,

Dallas Miller
Water Rights Specialist

October 22, 1997

WATER
RESOURCES
DEPARTMENT

EAGLE RIDGE DEVELOPMENT CORP
PO BOX 1215
REDMOND, OR 9756

Reference File G 12905, Permit G 11762

Dear Extension Applicant:

We have received your request for extension of time limits under your permit.

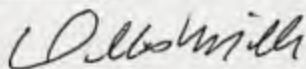
Because of action taken by the Oregon Attorney Generals Office the Water Resources Department is working on new administrative rules affecting the extension process. Anticipating this change in the rules, we will hold your application until the new rules are in effect. We feel that processing your request under the new rules may be to your advantage. We anticipate that the rules will be adopted in March 1998.

If you must have an extension of time before that date, we may be able to process it if you can provide a statement that you can complete the project within one year.

Your patience is appreciated and we will process your request as soon as possible. Enclosed is receipt 15637 for the \$100 fee submitted.

If you have questions please contact me at the address below or phone 1-800-624-3199 ext. 272.

Sincerely,

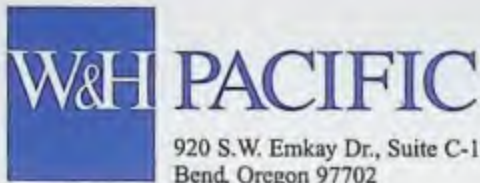


Dallas Miller
Natural Resource Specialist 2

Watermaster Dist 11



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



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

RECEIVED

NOV 27 1998

WATER RESOURCES DEPT.
SALEM, OREGON

November 24, 1998

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97310-0210

**RE: Eagle Ridge Development Corporation
Permit G-11762
OWRD Application No. G-12905
Permit Extension Application
WHP File No. 526-0105**

Dear Dallas:

The referenced quasimunicipal permit for Eagle Crest was issued on May 31, 1994. Construction was initiated to perfect the permit and the standard Form A was submitted on June 6, 1995. Extension requests were filed with your department for the completion of construction on September 3, 1997 and September 30, 1998. Although these extension applications are pending, the term of the extension was not clear. The following summary and attached application for extension of time are intended to replace the pending extension request.

Eagle Crest has made significant progress in perfecting the quasimunicipal permit. Three groundwater wells have been constructed and placed in service. A 300,000 gallon storage reservoir has been completed, together with miles of water distribution piping to serve the development. Approximately 500 homesites, in the form of single family lots or multi-family lots/units, have been developed. An 18-hole golf course has been constructed and opened for play and significant progress has also been made on a second 18-hole golf course, with play expected in the summer of 2000. A large pool and recreation building have been completed, a sales office constructed, a golf course pro shop completed, golf course maintenance building occupied, and numerous homes and multi-family units completed.

Although significant progress has been made in perfecting the permit, additional time is required to complete the phased development for this large scale resort project. Development at Eagle Crest has proceeded at a rapid pace, but even at this pace, additional years are required for the approximately 1200 units approved for the project. Eagle Crest respectfully requests a 10 year extension to complete the construction of works and/or the purchase and installation of the equipment necessary to use the water. This 10 year time period will allow Eagle Crest to complete the installation of golf course irrigation systems, landscape irrigation systems, the distribution system to serve development and generally complete the phased development of Eagle Crest. The phased development is fully dependent upon market demand for the Eagle Crest residential inventory, which is impossible to predict. We believe the 10 year timeframe is reasonable, particularly with the significant progress already made in perfecting the referenced permit.



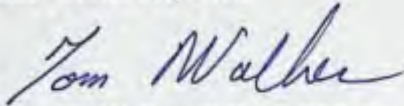
November 24, 1998
Page 2

RECEIVED
NOV 27 1998
WATER RESOURCES DEPT.
SALEM, OREGON

Please consider my request and never hesitate to contact me if you have questions or needs for additional information. This water right permit is critical to Eagle Crest and we do not want to jeopardize the permit right in any way. Thank you for your assistance.

Very Truly Yours,

W&H PACIFIC, INC.



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

Cc: Alan VanVliet

112098tw.doc



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

November 16, 1998

W & H PACIFIC
920 SW EMKAY DR STE C100
BEND OR 97702

RE: File G-12905

Enclosed is our refund check of \$100 for excess extension fees collected on the above Permit G-11762.

If you have any questions, please contact me at the number above, or toll-free 1-800-624-3199.

Sincerely,

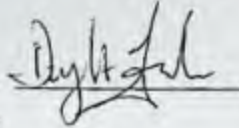
Dallas Miller
Natural Resource Specialist 2

DM:jh

TO: FISCAL SECTION

FROM: JANET HALLADEY

SUPERVISOR APPROVAL



SUBJECT: Request for refund check



Please refund \$ 100⁰⁰ to W+H Pacific
file G-12905, receipt 25125. These funds are
refunded due to:

- ☐ Application rejected
- ☐ Application withdrawn
- ☐ Excess fees collected for assignment
- ☒ Excess fees collected for extension

MAILING ADDRESS:

W+H Pacific920 S.W. Emkay Dr. Ste C-100Bend, OR 97702

m:\groups\wr\support\janet\forms & form letters\\$\$\$\$form

0240

RECEIVED NOV 04 1996



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

October 23, 1998

EAGLE RIDGE DEVELOPMENT, CORP.
PO BOX 1215
REDMOND, OR 97756

Reference: Files G 12905 Permit G 11762

Dear Extension Applicant:

We have received your request for extension of time limits under your permit.

You have already applied for an extension of time on 9/8/97, because of the making of new administrative rules we have not yet processed that request. It is not necessary to apply again or pay the \$100 fee again. We will keep your request and refund the \$100 fee to you. The commission has adopted the new rules and we will be processing your request for extension.

If you have questions please contact me at the address below or phone 1-800-624-3199 ext. 272.

Sincerely,

Dallas Miller
Natural Resource Specialist 2

cc: Watermaster Dist 11

Janet
Please
Refund
\$100 to
Eagle Ridge
DSM

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **25125**

158 12TH ST. N.E.
SALEM, OR 97310-0210
378-8455 / 378-8130 (FAX)

INVOICE # _____

RECEIVED FROM: WPH Pacific Inc
BY: _____

APPLICATION	G12905
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 24-22 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 100.00

0417 WRD MISC CASH ACCT

ADJUDICATIONS

PUBLICATIONS / MAPS

OTHER: (IDENTIFY) _____

OTHER: (IDENTIFY) _____

\$
\$
\$
\$

REDUCTION OF EXPENSE

CASH ACCT.

PCA AND OBJECT CLASS

VOUCHER #

0427 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES

0410 RESEARCH FEES

0408 MISC REVENUE: (IDENTIFY) _____

(New) TC165 DEPOSIT LIAB. (IDENTIFY) _____

(Existing) TC168

WATER RIGHTS:

0201 SURFACE WATER

0203 GROUND WATER

0205 TRANSFER

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

EXAM FEE

\$

\$

\$

EXAM FEE

\$

0202

0204

0206

0219

0220

RECORD FEE

\$

\$

\$

LICENSE FEE

\$

\$

0240 OTHER (IDENTIFY) Extension

0437 WELL CONST. START FEE

0211 WELL CONST START FEE

0210 MONITORING WELLS

OTHER (IDENTIFY) _____

\$

\$

CARD #

CARD #

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS

\$

0467 HYDRO ACTIVITY

LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)

0231 HYDRO LICENSE FEE (FW/WRD)

HYDRO APPLICATION

\$

\$

\$

RECEIPT # **25125**

DATED: 10-2-98

BY: M. M. M. M.

Distribution-White Copy-Customer, Yellow Copy-Fiscal, Blue Copy-Fin, Bull Copy-Fiscal



W&H PACIFIC

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

RECEIVED

OCT 02 1998

WATER RESOURCES DEPT.
SALEM, OREGON

September 30, 1998

Mr. Dallas Miller
Oregon Water Resources Department
158 12th Street NE
Salem, OR 97301-0210

RE: Eagle Ridge Development Corporation
Permit No. G-11762
Application No. G-12905
WHP File No. 526-0105

Dear Dallas:

I have enclosed an executed time extension application and check in the amount of \$100.00 for the referenced quasimunicipal permit at Eagle Crest. Your review and approval of time extensions to complete construction of appropriate water facilities and accomplish beneficial use of water are respectfully requested.

Quasimunicipal Permit No. G-11762 was issued to Eagle Crest in 1994, primarily to support the development of an expansion of the existing Eagle Crest Resort. Development of the Resort has been underway since that time, and significant progress has been made in perfecting the permit. Complete construction of all facilities and beneficial use of all necessary water supplies has not yet been accomplished, due to the phased development of the Resort property. As you would expect, additional time is required to complete the phased development for this large scale resort project.

Since the permit was issued, Eagle Crest has constructed three wells, installed pumps and motors and made all three wells operational, constructed a 300,000 gallon storage reservoir, constructed miles of water distribution piping, developed an 18-hole golf course, made significant progress on an additional 9-hole golf course, constructed recreational amenities and completed commercial facilities. Approximately 500 homesites in the form of single-family lots or multi-family lots/units have been developed.

Within the past year, Eagle Crest has completed the grading on a new 18-hole golf course and completed the irrigation system installation on nine of those holes. Eagle Crest constructed a new well, including installation of a 250 horse power vertical turbine well pump, well house improvements and all piping connections. Approximately 140 homesites or multi-family units have been made available in 1998, including the installation of approximately 9000 lineal feet of 8" and 10" water mains. Within the past year, Eagle Crest has invested approximately \$900,000 in domestic water and irrigation system improvements.

WATER RESOURCES DEPT.
SALEM, OREGON

OCT 02 1998

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WATER RESOURCES DEPT.
SALEM, OREGON

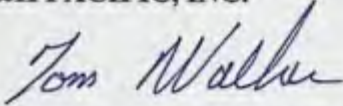


Development at Eagle Crest is continuing at a rapid pace, but even at this pace, additional years are required for the approximately 1200 units approved for the project. At the same pace of development, six additional years will be required to complete the development. This schedule however is fully dependent upon market demand for the Eagle Crest residential inventory. We have respectfully requested a six year extension to complete construction and full application of water to beneficial use.

Please consider my request and never hesitate to contact me if you have questions or needs for additional information. This water right permit is critical to Eagle Crest and we do not want to jeopardize the permit right in any way. Thank you for your assistance.

Very Truly Yours,

W&H PACIFIC, INC.



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

Cc: William D. Lyche

Tw100198.doc

RECEIVED

OCT 02 1998

WATER RESOURCES DEPT.
SALEM, OREGON

RECEIVED

OCT 02 1998

WATER RESOURCES DEPT.
SALEM, OREGON

File No. G-12905

APPLICATION FOR EXTENSION OF TIME

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Eagle Ridge Development Corporation

P.O. Box 1215

Redmond, OR 97756

(541) 923-0807

address

city

state

zip

phone

record owner of permit No. G-11762, do hereby request that the time in which to:

☒ complete the construction of works and/or purchase and installation of the equipment necessary to the use of water, which time now expires on October 1, 1998, be extended to October 1, ~~2000~~, and/or the time in which to 2004

☒ accomplish beneficial use of water to the full extent under the terms of the permit, which time, now expires on October 1, 1998, be extended to October 1, ~~2000~~ 2005

I have accomplished the following described works and/or purchase and installation of equipment necessary to use of water under said permit.

(1) within past year Constructed +9000 lineal feet of 8" and 10" domestic water mainline, +150 water services, +20 fire hydrants, and constructed a new well.

(2) prior to this past year Constructed two wells, a 300,000 gallon reservoir, developed approximately 500 residential units, opened an 18-hole golf course, etc.

(3) and have accomplished beneficial use of water to the extent of (if for irrigation, state how many acres have been irrigated)

(please reference the attached cover letter)

(4) unable to complete construction and/or application of water within the permit time limits because of the phased development for the large scale Eagle Crest Resort project.

Bill Lyche Dir. of Development
signature

9/30/98

date

MAIL APPLICATION AND STATUTORY FEE OF \$100 FOR EACH PERMIT TO:
WATER RESOURCES DEPARTMENT
158 12TH ST NE
SALEM, OREGON 97310

October 22, 1997

WATER
RESOURCES
DEPARTMENT

EAGLE RIDGE DEVELOPMENT CORP
PO BOX 1215
REDMOND, OR 9756

Reference File G 12905, Permit G 11762

Dear Extension Applicant:

We have received your request for extension of time limits under your permit.

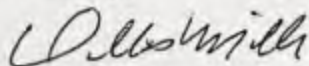
Because of action taken by the Oregon Attorney Generals Office the Water Resources Department is working on new administrative rules affecting the extension process. Anticipating this change in the rules, we will hold your application until the new rules are in effect. We feel that processing your request under the new rules may be to your advantage. We anticipate that the rules will be adopted in March 1998.

If you must have an extension of time before that date, we may be able to process it if you can provide a statement that you can complete the project within one year.

Your patience is appreciated and we will process your request as soon as possible. Enclosed is receipt 15637 for the \$100 fee submitted.

If you have questions please contact me at the address below or phone 1-800-624-3199 ext. 272.

Sincerely,



Dallas Miller
Natural Resource Specialist 2

Watermaster Dist 11



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

RECEIVED BY FAX
6/30/93 4:51 PM

RECEIVED

JUL - 6 1993

WATER RESOURCES DEPT.
SALEM, OREGON

By FAX 378-8130 and Regular Mail

June 30, 1993

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

Re: Objection to Technical Report for:
G-12905, Eagle Ridge Development Corp., Group Domestic, Deschutes

WaterWatch submits the following objections pursuant to OAR 690-11-170:

♦ **The Technical Report is Defective.**

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

- The report fails to assess whether the proposed use is restricted by statute. OAR 690-11-160(1)(b).
- The report fails to assess the proposed use with respect to conditions on other permits from the same source or the same type of use. OAR 690-11-160(1)(c). While the CONDITIONS section does mention that all previously imposed conditions are included, it does not indicate the specific conditions. We suggest that the already imposed conditions are either listed separately under a specific heading or that asterisks are placed next to all the conditions listed which have been previously imposed.
- The report fails to assess the use with respect to all applicable administrative rules. OAR 690-11-160. While the report does appear to include an assessment of the use pursuant to Division 9 rules, it does not assess the use with respect to the applicable basin plan.
- The report fails to evaluate potential conflicts with existing rights. OAR 690-11-160(1)(e). The information outlined in the section entitled CONFLICTS WITH OTHER WATER RIGHTS does not meet this requirement. The scope of the information is narrowly focused on other rights from the same point of

diversion and for lands described in the application. The rules are not that limited. The technical report must evaluate the potential for conflict with existing rights -- rights which are using the same source of water and rights from other sources that may be affected by the proposed withdrawals (such as surface water rights that may be affected by groundwater pumping).

- The report provides conclusions rather than evaluations of water availability. OAR 690-11-160(1)(f). The report concludes that there is no potential to cause substantial interference with surface waters and that water is likely to be available. No evaluation is provided in the report, although it appears that the referenced "Groundwater/Hydrology Section Report" contains that information. To fulfill the requirements of the rules, and to meet the intent behind the rules, this evaluation should be included by either being inserted in the text of the report or as an attachment to the report.
- The report does not provide an evaluation of whether the amount requested is necessary to meet the proposed use. OAR 690-11-160(1)(g).
- Finally, there is no evaluation of land use compatibility. OAR 690-11-160(1)(h).

◆ **The Use As Proposed is Not in the Public Interest.**

The proposed use fails to pass the public interest considerations in ORS 537.620 and the policies of the Groundwater Act ORS 537.525. *See also*, OAR 690-11-195(3)(d), (4)(a), (4)(b), (4)(c)(A), (4)(d), (4)(e), (4)(f).

1. **The proposed use depletes flows and adversely affects the water quality needed to meet existing water rights for surface waters and for numerous public instream uses of the Deschutes River.**

The 1984 Deschutes Basin Plan states:

● **General Findings:**

Flows are not sufficient on many streams during the summer months of average water years to supply existing and future demands. Finding 2.

Simultaneous use of a major portion of existing consumptive rights results in flows at or near the zero level on some streams during the summer months. Finding 3.

River related recreation is important to the economy of the upper Deschutes Basin. Finding 25.

The support of resident and stocked fish is essential to river related recreation. Finding 26.

Recommended base flows suggested by fisheries agencies are substantially higher in many locations than flow levels that can be obtained during average water years under current stream regimen and existing water rights and priorities. Finding 27.

Establishment of restrictions on further appropriations would prevent an increase in depletion potential on some streams which would aid in maintaining minimum flows. Finding 33.

Where streams are seasonally overappropriated, the establishment of restrictive actions would have no immediate physical effect until additional flows become available. Finding 34.

● **Middle Deschutes findings include General Findings 3 & 27 and:**

There is inadequate streamflow for fishery requirements. Finding 20.

● **Lower Deschutes findings include General Findings #3 and:**

Many streams do not provide enough flow for nonconsumptive public uses at present in periods of relatively low as well as critical flow. Finding 3

In April, 1986, Deschutes County and the City of Bend conducted a "River Study". That study included extensive goals and policies. See River Study p. 13-2 through 6. Among those policies are: (1) Increase Deschutes River stream flows from Wickiup Reservoir on down; (2) Maintain stream flows in the little Deschutes River and its tributaries that will provide for irrigation, fisheries, wildlife and recreation needs; and (3) Increase stream flows below the north canal dam, below the irrigation diversion in Tumalo creek, and below the main irrigation diversions in Squaw Creek. Id. Thus, the county has an interest in insuring that destination resorts not be located in areas that may provide critical groundwater flow for the identified rivers and streams.

The Deschutes River system supports a variety of fish life including rainbow, brown and cutthroat trout. The Deschutes River supports a major Oregon sports fishery. Low flows during summer months impair fish survival by, among other things, raising water

temperatures, decreasing aquatic habitat and trout rearing areas and promoting excessive growth of algae. *See Mathisen, Upper Deschutes River Water Resource Review, pgs. 10-11.* Low flows in the winter adversely effect fish habitat by, among other things, exposing spawning gravel, reducing feeding and rearing areas in the river, and increasing fish deaths due to severe ice conditions on the river. *Id.*

Several segments of the Deschutes River have received state scenic waterway designation. Several segments of the Deschutes River have also been federally designated under the Federal Wild and Scenic Rivers Act. Currently there are several instream water rights and pending instream water right applications pending for the Deschutes River mainstem and tributaries. Application #070695, filed in September of 1990, requests protection of Deschutes River flows needed for habitat for bull, rainbow and brown trout, kokanee and coho salmon. The instream water right certificates and pending applications serve the public interest by protecting flows needed for fish, pollution abatement and recreation in the Deschutes River. As a tributary to the Columbia River, the Deschutes River contribute flows for listed threatened and endangered fish populations in the Columbia River.

In addition to the water quantity problems, the Deschutes River mainstem suffers from water quality problems. Oregon statutes require that the WRD's actions ensure the protection of the water quality in Oregon's river and groundwater aquifers. *See, ORS 468B.015(2) & (4), ORS 468B.020(1), ORS 468B.155, OAR 690-410-010(1).* One segment of the river is listed in the Department of Environmental Quality's 1992 *Water Quality Status Assessment Report, 305(b) Report* as water quality limited. This segment of the river is unable to support the designated beneficial use of aquatic life. Several other segments can only partially support aquatic life. DEQ has also identified water withdrawals as a cause of Deschutes River quality problems. Further depletion of surface water flow will only exacerbate these existing water quality problems. In addition, the existing resort facility has, in the past, spilled grease and other substances into the Deschutes River system. The proposed expansions increase the likelihood of those kinds of discharges. The proposed expansion will also inundate natural drainages with runoff from constant irrigation of proposed lawns, gardens, golf courses and grounds. In addition, the sewage discharge from the expansion, whether by septic tank or a sewage treatment plant, may add to existing water quality problems.

The Department has determined that a hydraulic connection exists between surface and groundwater in the Deschutes River system. *See Agenda Item J-3, July 17, 1992, page 2.* A 1930 Department of Interior Report by Harold Stearns states that the Deschutes River is primarily fed by springs. Stearns, pg. 25. The report describes a groundwater resource that is highly permeable in parts and drains into the Deschutes canyon, providing over

1,000,000 acre feet per year of water and over 1,500 cfs in the middle Deschutes Basin. Stearns, pg. 191, 208.

A 1955 Water Resources Committee report to the Oregon Legislature confirms Stearns' findings and states that the groundwater supply makes the Deschutes' flow one of the most consistent in the nation. Water Resources Committee Report, pg. 18. Furthermore, an even more recent Water Resources Investigation Report by the USGS confirms the finding of important discharge into the surface waters in the area. Report 84-4095, pg. 13-15. Thus, groundwater in this area is vital to surface water flows, is directly connected to the surface waters, and further permits to use groundwater will deplete already overallocated surface waters in the basin.

2. **The failure to require water use measurement and reporting violate Oregon's policies and goals which call for the control of Oregon's waters. Thus the proposed use will impair and be detrimental to the public's interest.**

When determining whether a proposed use is in the public interest the Commission is required to consider the "control of the waters of this state for all beneficial purposes" and the water resources policies in the statute. ORS 537.170(5)(c) and 537.170(5)(g). The Oregon Legislature has recognized that in order to maintain and increase the economic and general welfare of the people of Oregon the State must ensure "the proper utilization and control of the water resources of this state, and such use and control is therefore a matter of greatest concern and highest priority." ORS 536.220(1). The Legislature has also found that it is "in the interest of the public welfare" that activities be "designed to encourage, promote and secure the . . . control of" Oregon's water resources. ORS 536.220(2)(a).

The Groundwater Act of 1955 declares and finds that the right to control of Oregon's water "from all sources of water supply belongs to the public . . ." ORS 537.525. The Act sets forth policies to ensure the "preservation of the public welfare, safety and health." *Id.* These policies call for the control of the groundwater resource in order to prevent depletion, to determine and maintain reasonably stable water levels, and to determine the characteristics of groundwater statewide. ORS 537.525. These statutory policies are reflected in the Commission's Groundwater Management Policy. OAR 690-410-010. When approving groundwater applications the State can impose conditions or limitations as needed to protect the "public welfare, safety and health." ORS 537.620(5).

Water use measurement and reporting requirements are essential if the State is to achieve these statutory policies and goals. These requirements generate critical information on actual water use and the effect of the use on the water resource. It also gives the

Department information vital to management and enforcement efforts, it provides information necessary to "clean up" the Department's water right records and helps with future water use planning. See Testimony of Martha O. Pagel, Before the Senate Joint Committee on Water Policy, 2/2/93, pgs. 1-5.

Continuous information about groundwater use and groundwater characteristics is critical for management of the groundwater resource in the Deschutes Basin. As Director Pagel stated on page 2 of her September 14, 1992 letter to the Chairpersons of Crook, Deschutes and Jefferson County Commissions:

The groundwater information base will never be perfect. However, in many areas it must improve substantially before the Commission can both issue additional permits and meet its obligation to protect the groundwater resource. . . . If the demands of growing communities are to be met in a timely manner, it is imperative that the state, local governments, citizens and the development community work together to generate more and better groundwater information."

Those using the resource should provide the needed information. The Department should require the permittee to measure and report the amount and place of water use under the proposed permit. This information is critical if the Department is to carry out its duty to protect and manage the resource. As a policy matter, WaterWatch believes that water use measurement and reporting should be required of every new permit issued in Oregon.

3. The proposed use is likely to impair the public interest because it will interfere with surface waters in the Basin.

The Department has determined that the groundwater resource is hydraulically connected to surface waters in the area. However, it has failed to determine the extent of the connection and the short and long term impacts of the connection on surface waters in the basin. The applicant has failed to meet its burden of proof because it has failed to show long term impacts of the pumping will not harm the resource.¹ Oregon's ground water statute

¹The County's independent consulting Hydrologist (J. Gonthier) indicates that more data and analysis should be required of Eagle Creek in the land use proceedings. In addition, in the Appendix to his 10/92 critique Gonthier outlines three page of data gaps, misstatements and concerns about the report on which Eagle Crest primarily relies. Hydrologist Gonthier's "Summary of Conclusions" notes that although Eagle Crest has addressed some issues, they have "fail[ed] to include an evaluation of the size of the impact area as a consequence of long-term pumping."

and the implementing rules require the Department to look at both short and long term impacts of groundwater use and to insure that the use will not interfere with surface waters. ORS 537.620(3), OAR 690-9, OAR 690-11-195(4)(a). This determination is critical given the existing overallocation of surface waters, the water quality problems and the public interest in maintaining instream flows necessary to support public uses of the Deschutes and Columbia Rivers.

The Department and Commission have recognized in the past the increasing pressure to develop groundwater in the Basin and expressed concern over the ability of the resource to meet new demands. Until the required level of scientific certainty needed for decision making is determined and the information developed, this permit should not be issued.

In addition, as stated in WaterWatch's October, 1992 Petition for Withdrawal or Temporary Emergency Rulemaking (previously filed with the Commission), in order to protect the public's interest in the Columbia River system (of which the Deschutes River is tributary), and the threatened and endangered fish species which rely on this resource, this and other permit for water from the Columbia River Basin should not be considered until sufficient instream flows are determined and guaranteed throughout the basin. Until these flows are determined and protected, the Department has no way to ensure that new uses proposed in the system will not harm the public interest. For the reasons outlined in the objection and in WaterWatch's October Petition (hereby incorporated as part of this objection) the proposed use will impair and be detrimental to the public interest in the resource.

Furthermore, the proposed conditions for this permit do nothing to protect surface waters from interference. Proposed condition #13 requires a pump test prior to receiving a certificate. A pump test provides information relating to the extent of the ground water surface water connection and the aquifer characteristics. This test provides information needed to make a public interest determination and should be obtained prior to a final public interest determination. If, after this information is obtained and proves the ground water support the proposed use, and the use is in the public interest, then condition #13 requiring periodic pump tests during the life of the permit and certificate would be appropriate. The condition should not, however, limit the Director's discretion as to when she can require pump tests. We suggest language that would require testing annually or more frequently as deemed needed by the Director.

Proposed condition #6 does not protect the ground water or surface water resource. The condition requires the permit holder to stop use if the well "displays a total static water-level decline of 25 or more feet." While we support the concept that a condition should require measurement and reporting of static water levels, as currently proposed, the conditions will not protect the resource. The "25 foot declines" is a standard condition and

is not specifically geared to the proposed ground water source. For example, this condition will not protect the resource if the aquifer depth is 20 feet. If this is the case, this condition allows the permittee to pump the aquifer dry. The aquifer depth must be determined prior to the public interest determination in order to determine the level of "tolerable" static water level decline. If the aquifer depth is unknown at this time - then applicant should conduct tests to determine the aquifer depth - prior the public interest determination. Condition #6 should require the permittee to stop use if the well displays declines below the determined "tolerable" static level.

In addition to not protecting the ground water resource, proposed condition #6 does not protect the nearby surface waters from interference by this proposed use. This condition only addresses the ability of the aquifer to accommodate the proposed use. It does nothing to monitor and if necessary shut off or curtail use if the pumping interferes with surface waters.

4. The proposed use violates Oregon's statewide policies.

Oregon's Groundwater Management Policy requires that "(i)nterference between groundwater uses and competing groundwater and surface water uses . . . be prevented and/or controlled to protect the water resource and existing rights." OAR 690-410-010(1). The Policy also requires the State to manage groundwater and surface water conjunctively in order to protect the public's interest in the water resource and existing rights. OAR 690-410-010(2)(a). In addition, Oregon's Statewide Water Allocation Policy requires that groundwater use occur within the capacity of the resource and requires the State to protect Oregon's waters from overallocation by new uses of groundwater. OAR 690-410-070(1).

Allowing this proposed use to go forward violates all these policies. The Department's failure to manage the ground and surface waters conjunctively in the Deschutes River basin will exacerbate existing overallocation problems, water quality problems, and will further impair existing surface water rights. It is bad public policy to continue issuing groundwater rights in the face of increasing doubts as to whether increased groundwater use is sustainable.

5. This application was processed out of order.

The tentative priority date for this application is 5/4/92. There are currently several pending instream water right applications with tentative priority dates senior to this application. The Commission, last summer, directed the Department to process applications in the order received. This application has the potential to decrease flows needed to meet senior instream water rights and senior pending instream water right applications. Thus,

these applications should not move forward until the instream water right applications are processed.

6. The proposed use is not compatible with local land use plans and is contrary to the Department's own rules.

The applicant has not yet received land use approval for the proposed development. There is no valid Goal 8 Destination Resort citing map for Deschutes County. Thus, this applicant does not even have the basis to even apply for an expansion permit. Even if a Goal 8 map were in place, the applicant would still have to go through an extensive land use permitting process. The statement in proposed condition #12 states that "Pre-applications discussions between Deschutes County officials and the applicant **suggest** that land use approval will be obtained"² does not change the fact that there is no land use approval for the land use that will be served by this proposed use.

OAR 690-11-030(7) requires that "**prior to the completion of the technical review**" applications must include the required land use information. The application does not include the required land use information. OAR 690-11-160 specifies that the technical review contain an evaluation of the compatibility information received. Thus, the technical review cannot be completed and the application should not move forward.

The rules require the Department to conclude that the mandatory informational requirement has been met if the information has **not** been received. The rule itself is arbitrary, capricious and contrary to law and should be declared invalid. The rule is also contrary to OAR 690-05-035(4)(a) which requires the Department to "(r)equire land use information be submitted with applications." The information "shall be sufficient to assess compatibility as specified on forms contained in the Department's Land Use Planning Guide." Id. Thus, OAR 690-11-030(7) which requires that the land use information requirement is satisfied even if **no information** is received means that the Department will not receive "information sufficient to assess compatibility."

Regardless of the outcome of this "informational requirement" dance, OAR 690-11-030(7) states that if the land use information is not received or post marked "before the end of the 30-day **comment period**" the Department may presume that the proposed use is compatible with land use plans and regulations. OAR 690-11-030(7). This presumption can not be applied in this case. Both the applicant and the County have informed WRD that

² This statement is not a "condition" of water use and should be deleted from the "Proposed Conditions" section.

there is no land use approval for this proposed development. Clearly a presumption of compatibility cannot be made for this proposed water use.

Finally, OAR 690-050-035(4)(b) allows approval of proposed uses if the proposed use meets the requirements of state water law (including the permit application requirements referenced above) and the land use is "allowed outright or does not require discretionary land use approvals" or the applicant has already received the necessary land use approvals. The land use served by this proposed use is not allowed outright, the discretionary land use approvals have not been given and the use as proposed does not meet the substantive and procedural requirements of Oregon Water Law. Thus, the proposed use cannot be approved.

Once the Department has followed the substantive and procedural requirements of Oregon water law and if the Department finds the proposed use is in the public interest, the Department may withhold approval until the applicant has received all land use approvals or condition the permit if land use approvals are "pending." If the use were to be found to be in the public interest and all the requirements of Oregon water law are met, the WRD should withhold final action on this application until final land use approval is achieved. The proposed expansion is extremely controversial and may not receive land use approval. In addition, given the WRD's current lack of knowledge relating to the extent of interference with surface waters and its ongoing study of the hydrology of the Deschutes River basin, it is in the public interest to withhold permit issuance.

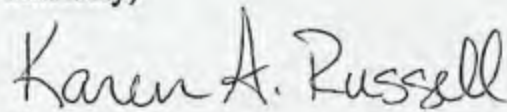
7. Proposed condition #14 does not protect the public interest because it allows the transfer of amounts above actual permit requirements.

This condition states that in the event of a request to transfer the point of diversion, add a point of diversion, or to change the diversion facility, the amount of water allowed in the transfer, along with "any other right, shall not exceed the capacity of the facility at the time of perfection of this right." This proposed condition could, it appears, be read to allow that upon transfer, the quantity of use authorized pursuant to this permit could be expanded beyond the amount specified on the right. In other words, the capacity of the facility could be greater than the amount of actual use that took place under the terms of the permit. This is a violation of Oregon state water law. ORS 540.505 et. sec.

♦ **Conclusion**

We are open to discussion with the Department and the applicant on all of the issues raised in this objection letter. We are committed to working with the Department to cure the problems with the contents of this and other technical reports.

Sincerely,

A handwritten signature in cursive script that reads "Karen A. Russell".

Karen A. Russell
Legal Affairs Coordinator

TRANSMISSION REPORT

:LAZERQUICK CENTER 17 (JUN 30 '93 16:58)

DATE	START TIME	REMOTE TERMINAL IDENTIFICATION	MODE	TIME	RESULTS	TOTAL PAGES	DEPT. CODE
JUN 30	16:50	1-378-8130 JR	G3EST	07'09"	OK	12	



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MAR 24 1993

WATER RESOURCES DEPT
SALEM, OREGON

March 19, 1993

Mr. Steve Brown
Oregon Water Resources Department
3850 Portland Road, N.E.
Salem, Oregon 97310

Re: Eagle Ridge Development Corporation
Water Right Permit G-11313
OWRD File No. G-12905
W&H Pacific Job No. 526-0101

Dear Steve:

Water right permit number G-11313 was issued to Eagle Ridge Development Corporation on August 12, 1991. Several wells, including an 8-inch well with a 6-inch casing, were constructed under the permit. Subsequently, Eagle Ridge Development Corporation filed a water right appropriation application (File No. G-12905) for expansion of the original right, to include domestic use. In the review of the domestic use water right appropriation application, you requested additional information on the 8-inch well seal.

Your questions on the well seal were a result of the hydrogeological investigation completed by Mr. Kyle Gorman. Kyle's questions on the well seal were valid and I conducted a records research and investigation with Staco Well Services Inc. We determined a typing error had been made on the original well log, resulting in significant confusion over the extent of the seal. Staco Well Services Inc. has corrected and resubmitted the well log. A copy is attached for your review.

Based upon my conversation with Kyle Gorman, I believe the seal issue is now resolved. Thank you for your significant assistance.

Very truly yours,
W&H PACIFIC, INC.

Thomas A. Walker, P.E.
Senior Associate

cc: Bill Lyche
Kyle Gorman

05260101\ab031993.ltr



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

Page 1 of 2

MAR 24 1993

WATER RESOURCES DEPT
SALEM, OREGON (START CARD) # 34267

(1) OWNER: Well Number _____
Name Eagle Ridge Development
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 _____ ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	
13	0	50	Bentonite	0	18	15
10	50	100	Cement	18	100	60
8	100	300				

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☒ Other Bentonite dry in top 18'

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:	13	0	50		☐	☐	☐	☐
	10	+2	98	.25	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:	8	0	300		☐	☐	☐	☐
					☐	☐	☐	☐

Final location of shoe(s) 300

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

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
600	620	1x1/8	400	6		☐	☒
700	800	1x1/8	2000	6		☐	☒
						☐	☐
						☐	☐

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

☐ Pump ☐ Bailer ☒ Air ☐ Flowing
☐ Artesian

Yield gal/min	Drawdown	Drill stem at	Time
30		300	1 hr.

Temperature of Water 54 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 _____ Latitude _____ Longitude _____
Township 15 S N or S. Range 12 E E or W. WM.
Section 22 SW 4 NE 4
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Cline Falls Hwy

(10) STATIC WATER LEVEL:

528 ft. below land surface. Date 10-11-92
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found 608

From	To	Estimated Flow Rate	SWL
608	615		
720	735		

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
Dirt	0	2	
Broken rock	2	12	
Sand black coarse dry	12	25	
Broken rock red & gray	25	36	
Rock harder	36	42	
Sandstone soft brown	42	48	
Lava porous gray & brown	48	55	
Broken lava red & gray	55	83	
Lava harder red & gray	83	132	
Basalt gray hard	132	160	
Lava red medium	160	185	
Lava red with white pumice	185	203	
Multi-colored lava brown red gray	203	310	
Broken lava red brown	310	375	
Rock medium brown	375	392	
Rock gray with some pumice	392	400	
Rock gray and white	400	435	
Rock brown gray white	435	442	
Basalt gray hard	442	461	
AMENDED LOG			
CONTINUED			

Date started 9-18-91 Completed 10-11-91

(unbonded) Water Well Constructor Certification:

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

Signed [Signature] WWC Number 1358
Date 3-8-93

(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 722
Date 3-8-93



RECEIVED
AUG 23 1993
WATER RESOURCES DEPT.
SALEM, OREGON

August 20, 1993

Mr. Steve Brown
Oregon Water Resources Department
3850 Portland Road, N.E.
Salem, Oregon 97310

Re: Eagle Ridge Development Corporation
Groundwater Appropriation Application
OWRD File No. G-12905

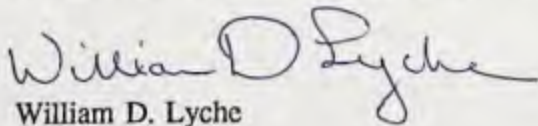
Dear Steve:

Thank you for your assistance on our pending water right appropriation application for Eagle Crest. As discussed, the recent passage of House Bill 3234 directly affects our pending application. The application was originally made for quasi-municipal use, but was amended to group domestic use due to the uncertainty regarding whether quasi-municipal use is allowed in the Deschutes Basin. Now that HB 3234 has resolved this uncertainty, Eagle Ridge Development Corporation respectfully requests that our application be amended to specify quasi-municipal use. No change is being made in the actual use of water proposed under our development plan. Rather, we are simply requesting a change in the terminology of the use designation in the application. Please change application item number 3, the intended use of water, from group domestic to quasi-municipal.

Please feel free to contact me or Tom Walker (388-4255) with any questions you may have.

Sincerely,

Eagle Ridge Development Corporation


William D. Lyche

cc: Tom Walker

Eagle Crest
P.O. Box 1215
Redmond, OR 97756
(503) 923-0807

October 12, 1993

Boby Cannon
2163 South Hwy 97
Redmond, OR 97756

RE: Eagle Ridge Development Corporation
G-12905

Dear Mr. Cannon:

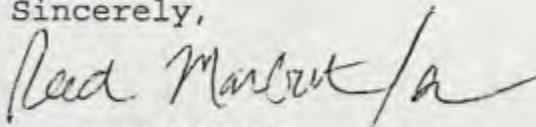
We have received your letter requesting information concerning the above-listed application, and pre- and post-1994 ground water table studies in the Deschutes Basin.

Eagle Ridge Development Corporation has submitted a Hydrogeologic Study for Eagle Crest Phase II. This report was prepared in 1992 by David J. Newton Associates, Inc. A Supplemental Findings report dated September 30, 1993 has also been submitted. These reports are contained within the application file at the Water Resources Department and are available for public review.

Our Groundwater/Hydrology Section has gathered the enclosed groundwater references for studies completed in the Middle Deschutes Basin.

If you have additional concerns, please call my secretary, Darlene Castle, or me.

Sincerely,



A. REED MARBUT
Water Rights/Adjudication Division

ARM/dpc
Enclosure

cc: Martha Pagel
John Borden
Fred Lissner
Bob Main



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

October 5, 1993

A BRIEF DESCRIPTION OF THE GROUND WATER RESOURCES OF THE
DESCHUTES RIVER BASIN, OREGON OREGON WATER RESOURCES
DEPARTMENT UNPUBLISHED REPORT SCEVA, JACK E. 1960

GROUND WATER RESOURCES OF THE CENTRAL DESCHUTES BASIN
BUREAU OF RECLAMATION REPORT FRINK, JOHN W. 1968

LIQUID WASTE DISPOSAL IN THE LAVA TERRANE OF CENTRAL OREGON
FEDERAL WATER POLLUTION CONTROL ADMINISTRATION, NORTHWEST
REGION, PACIFIC NORTHWEST WATER LABORATORY SCEVA, JACK E. 1968

DESCHUTES COUNTY COMPREHENSIVE PLAN RESOURCE ELEMENT
DESCHUTES COUNTY COMPREHENSIVE PLAN DESCHUTES COUNTY
PLANNING DEPARTMENT 1979

HYDROLOGIC EVALUATION FOR INFILTRATION DISPOSAL OF TREATED
EFFLUENT DESIGN DEFINITION MEMORANDUM NO. 13 BECON
ENGINEERING 1981

HYDROGEOLOGIC STUDY EAGLE CREST PHASE II REPORT TO EAGLE
CREST PARTNERS LTD NEWTON ASSOCIATES 1992

TECHNICAL REVIEW OF EAGLE CREST, PHASE II HYDROGEOLOGIC STUDY
REPORT TO DESCHUTES COUNTY COMMUNITY PLANNING DEPARTMENT
GONTHIER, JOSEPH B 1992

TECHNICAL RECONNAISSANCE REPORT SURVEY OF GROUNDWATER
RESOURCES, UPPER DESCHUTES RIVER BASIN, OREGON BUREAU OF
RECLAMATION REPORT KING, GARY 1992

Note: Additional data exist that have not been summarized in published reports.

mm map
Boby Cannon
2163 S HWY 97
REDMOND OR 97756

Martha O. Pagel, Dir.
OREGON DEPT. OF WATER RESOURCES
3850 PORTLAND RD NE
SALEM OR 97310

9/16 -

G-12903
cc: F. Lissner

J. Borden

S. Brown

FILE 9/163
RECEIVED

SEP - 9 1993

WATER RESOURCES DEPT.
SALEM, OREGON

September 4, 1993

Dear Martha Pagel:

Recently I read an Environmental Assessment Report (EA NO. OR-056-3-88) concerning the proposed 300,000 gallon reservoir for the Eagle Crest Resort expansion project.

One paragraph stated that "The Oregon Dept. of Water Resources has appropriated rights for irrigation purposes of the golf course. At the present time, a decision by the state, for the appropriation of the domestic water right is pending."

Since, according to the 1993-'94 Oregon Blue Book, the District 11 position of the OR DEPT. OF WATER RESOURCES is vacant, I was hoping you could answer my queries about the Ground Water Table Studies in the Deschutes County area.

Have there been any studies done since 1984 of the Ground Water Table? And were there any done prior to 1984 that can be used as a reference for the impact of the Eagle Crest Development on the Ground Water in the local Redmond-Tumalo area?

I am especially interested in what information was used by the OREGON DEPARTMENT OF WATER RESOURCES to determine whether or not to appropriate water for the second golf course at the Eagle Crest Destination Resort.

If you can answer my concerns or direct me to the proper agency or personnel who can I would appreciate your time and concern in this matter.

sincerely,
Boby Cannon

Boby Cannon

2163 S HWY 97
REDMOND OR 97756

G-12905

~~Letter 9/11~~ TICHE

9/16 Fred C.?

John B

S. Brown

RECEIVED

SEP - 9 1993

WATER RESOURCES DEPT.
SALEM, OREGON

Boby Cannon
2163 S HWY 97
REDMOND OR 97756

Martha O. Pagel, Dir.
OREGON DEPT. OF WATER RESOURCES
3850 PORTLAND RD NE
SALEM OR 97310

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sincerely,
Boby Cannon

Boby Cannon

2163 S HWY 97
REDMOND OR 97756

11/17/93

~~Letter to the~~
Please let me know if
this letter was responded to &
if we notified Mr. Cannon
of our tech rev.

ALP

(12/13)
Steve,
Ltr from Reed responding to Mr. Cannon's
9/4/93 ltr in File G-12905. No indic that
TR sent to Cannon or that he requested or
he on commentor cc list. (LBE)
Will add him to list of cc folks
for rev obj's & evals of those.

STATE OF OREGON
WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

EXHIBIT "B"

G-12906
6-29-93

TO: File G-12429
FROM: Donn Miller *DM*
SUBJECT: Review of Application and Permit Conditioning

DATE: 4/26/91

The application proposes the development of 3 wells for the appropriation of 9.12 cfs. The works are not yet constructed.

At issue in this brief review are scenic water way interference considerations (Diack), general groundwater/surface water considerations (Div. 9 rules), and general groundwater depletion.

Scenic Waterway

The Deschutes River loses water between Bend and Cline Falls (15S/12E-14ab) to the porous lava (USGS WSP 637-D). That translates into aquifer heads being below the stream level in the reach. The Deschutes shows little loss or gain between Cline Falls and Tethrow Bridge (14S/12E-36). Below Tethrow Bridge for many miles, the river gains much flow from the regional aquifer by way of numerous springs.

The head in the nearby Eagle Crest well at 15S/12E -14dc is about 150' below the nearby stream level. The head there (2714') does not appear at the river until Tethrow Bridge which is about 4 miles away. On that basis and the parameters set by the policy memo of 10/19/89, the project would not have a significant surface water interference.

Division 9

The wells would not interfere substantially with the nearby reach of the Deschutes River which is about 5700' away from the proposed well sites. The aquifer is unconfined and does not seem to fit the rule definition of hydraulic connection. I recommend the standard interference condition.

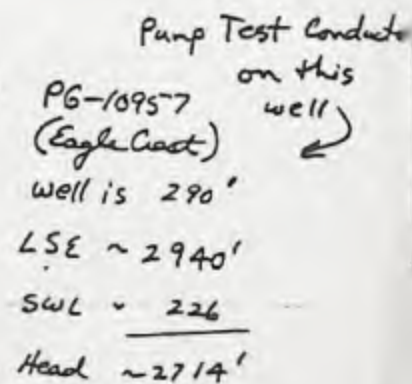
General Aquifer Depletion

Little is known about the long-term water level response in the aquifer. On that basis and the fact that this area is experiencing significant development. I recommend the use of water level decline conditions and water level reporting. See attached sheet for language.

Overview

This brief review resulted from an examination of well reports, topo maps, published reports and the files. A more detailed examination and summary of facts is possible if needed. In grander terms, this development will almost certainly impact the flows of the Deschutes River downstream. The impact will be minute since it can not be greater than the diverted quantities. The influence will be delayed due to the slow nature of groundwater movement. The impact will probably not be measurable but can be inferred through conceptualization of the setting.

4.28 cfs from 3 wells



448,75,400

IFORKED HORN BUTTE
1772
2007.7
004

2-12-88
DM

OREGON

QUADRANGLE LOCATION

Medium-duty

Light-duty

Unimproved dirt - 5752222.

U. S. Route

CLINÉF

CLINE FALLS, OREG.

N4415—W12115/7.5

1962

STATE OF OREGON

COUNTY OF WASHINGTON

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

ROAD #135
AND, OREGON 97225

503-292-0755

to use the waters of A WELL in the BEVERTON CREEK BASIN for IRRIGATION OF 10.3 ACRES AND MAINTENANCE OF A POND FOR WILDLIFE HABITAT.

This permit is issued approving Application G-12299. The date of priority is NOVEMBER 16, 1990. The use is limited to not more than 66.4 GALLONS PER MINUTE, BEING 58.9 GPM FOR IRRIGATION AND 7.5 GPM FOR WILDLIFE HABITAT, or its equivalent in case of rotation, measured at the well.

The well is located as follows:

NE 1/4 NE 1/4, SECTION 1, T.1 S, R 1 W, W.M.; 580 FEET SOUTH AND 10 FEET WEST FROM NE CORNER, SECTION 1.

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 2.5 acre-feet per acre for each acre irrigated during the irrigation season of each year.

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

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

NE 1/4 NE 1/4 10.3 ACRES AND WILDLIFE HABITAT
SECTION 1
TOWNSHIP SOUTH, RANGE 1 WEST, W.M.

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

The water user shall report a March static water level in the wells to the Groundwater/Hydrology Section of the Water Resources Department by April 15 of each year. The measurement shall be made and calculations detailed by a certified water rights examiner, registered professional geologist, certified engineering geologist, or professional engineer.

Use of water from the well shall not be allowed under this permit if the well displays an (A) average water level decline of 3 or more feet per year for 5 consecutive years, or (B) a water level decline of 15 or more feet in fewer than 5 consecutive years, or (C) a water level decline of 25 or more feet in any neighboring well with senior priority which provides water for an authorized use.

The Water Resources Department has determined that the initial water level in the wells are those of the initial March report. That is the level from which the cited declines in (A), (B), and (C) above will be referenced.

RECEIVED

Oregon

DEC 14 1993

WATER RESOURCES DEPT. PARKS AND
SALEM, OREGON RECREATION
DEPARTMENT

December 13, 1993

Marion Millard
3201 S.W. 73rd
Redmond, OR 97756

Dear Ms. Millard,

Thank you for stopping by the office recently to inquire about the Eagle Crest pump installation on the Deschutes Scenic Waterway. I've done some checking and would like to report back to you as promised. For the most part I was able to confirm what you told me.

As you know, Jan Houck in our Bend office is aware of the pump. It was installed without the proper notification and approval required under the scenic waterways law. Jan is awaiting a Water Resources Department determination on water rights before pursuing scenic waterway compliance. If water rights cannot be obtained, she will require that the pump be removed. Requiring removal now may lead to additional environmental disturbance if water rights are secured later and the pump is allowed to be reinstalled.

Jan told me her research revealed that a smaller pump had occupied essentially the same site in the past. Aerial photos taken in 1990 also showed that the power pole in Cline Falls State Park and the power line across the river have been in place for some time.

Though easily within the scenic waterway corridor, I understand that the pump is set well back from the river bank. Jan is confident that once vegetation removed during installation is allowed to recover, the pump itself will not be visible from the river.

I also spoke with Neil Mullane at the Department of Environmental Quality office in Portland. Neil assured me that DEQ is very much interested in water quality information of the type you mentioned. He recommended that you contact Bruce Hammon in the Pendleton office rather than the DEQ Bend office. DEQ's Pendleton mailing address is 700 SE Emigrant, Pendleton, Oregon, 97801. The phone number there is (503) 278-4030. Alternatively you could call Stephanie Hallock, Administrator, at (503) 229-5356.



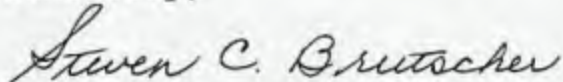
525 Trade Street SE
Salem, OR 97310
(503) 378-6305
FAX (503) 378-6447
73410-806

Marion Millard - Eagle Crest
December 13, 1993
Page 2

My conversation with Steve Brown at the Water Resources Department in Salem confirmed your information. Essentially, Eagle Crest Resort and Swalley Irrigation Company are cooperating to effect a transfer of point of diversion and place of use of water. Until such transfer has been approved, the Eagle Crest pump at Cline Falls cannot be legally operated.

Please feel free to check in with Jan Houck in our Bend office or with Jim Payne or myself here in Salem if you have further information or questions on this matter. Incidentally, we are moving our office in Salem on December 17. Our new mailing address will be 1115 Commercial St. N.E., Salem, Oregon, 97310.

Sincerely,



Steven C. Brutscher
Manager, Recreation Programs Administration

cc: Jan Houck, OPRD
Neil Mullane, DEQ
✓ Steve Brown, WRD

MMillard Jr

From: REYNOLDS 10-NOV-1993 14:44
To: marbut
CC: castle
Subj: 11/4 ltr from Sandra Sands

I gave you a letter to handle directly from Sandra Sands re Eagle Crest -- Martha wants you to know that Danielle did a lot of research for a Gov's response to a similar letter from Sands. You are welcome to a copy if it will help you.

FAX TRANSMISSIONDATE: 6-29-93 TIME: _____# PAGES: 2TO: Water Resources DeptFROM: Marion Millard PHONE: _____

LOCATION: _____

LOCATION: MARATHON BUSINESS MACHINES, INC.

FAX#: _____

FAX#: (503) 548-5967

MESSAGE: _____

PHONE#: (503) 548-5248

FAX 503-378-8130

6-28-93

P.1

Water Resources Dept
3850 Portland Road N.E.
Salem, or. 97310

attn: Mr. Thomas E. Shook
Water Rights Specialist
Technical Review 7-29-1993

Dear Sir,

I am opposed to Reference File:
G-12905, for the following
reasons: their legal property
descriptions are incorrect for
Section 22. Eagle Ridge Development
and Eagle Creek do not own all of
section 22. The portion of Section
22 East of Nine Falls Road is part
of Canyon River Territories and is in
private ownership.

TAX LOT 200 BEN JOHANEK

201 JACK BAKER

202 PAT McCREARY

300 BEING SOLD TO NEW OWNER

201 A. J. D. S. S.

202 TAT McCREARY

300 BEING SOLD TO NEW OWNER

301 DAN DETERS

302 HARRY BRIDGES

I have talked to these people espec
for Tax Lot 300. They know nothing
about this and want to know what

P2

Eagle Creek is up to now.

Section 23 is ~~all~~ almost all in
Canyon River Territory except for the
original Eagle Creek. The $W\frac{1}{2}$ & the $W\frac{1}{4}$
has several private parcels.

Section 26 as described " $NE\frac{1}{4}$ & the
 $NE\frac{1}{4}$ " is either BLM or private
ownership. That area is where I live.

Section 27 is partially privately
owned on the east side of Nine Falls Road
or is BLM.

Sincerely,

Phone
923-0749

Marion Millard

3201 S.W. 73rd St

Redmond, Or. 97756

RECEIVED

MAR - 7 1994

WATER RESOURCES DEPT.
SALEM, OREGON**W&H Pacific**155 N.E. Revere
Bend, OR 97701(503) 388-4255
Fax (503) 388-4229• Planning
• Engineering• Surveying
• Landscape Design• Environmental
Services

To: A. Reed Marbut, Administrator	Date: 3-4-94
Water Rights and Adjudications Division	Project Number: 5626-01-05
Oregon Water Resources Department	Project Name: Eagle Crest II
3850 Portland Road, NE	Regarding: Groundwater Application G-12905
Salem, OR 97310	

**PLEASE NOTIFY US IMMEDIATELY
AT (503) 388-4255 IF THERE ARE ANY
PROBLEMS RECEIVING THIS TRANSMISSION**

We Are Sending:☒ Attached☐ Facsimile☐ Number of Pages Including☐These Are Transmitted:☒ For your Info/File☒ As Requested☐ For Review and Comment☐Copied To:

Richard Whitman

William D. Lyche

Copies	Description
ONE	Application Exhibits Notebook

Comments

Signed:

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

RECEIVED

MAR - 7 1994

WATER RESOURCES DEPT.
SALEM, OREGON**W&H Pacific**155 N.E. Revere
Bend, OR 97701(503) 388-4255
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We Are Sending:☒ Attached☐ Facsimile☐ Number of Pages Including☐**These Are Transmitted:**☒ For your Info/File☒ As Requested☐ For Review and Comment☐**Copied To:**

Richard Whitman

William D. Lyche

Copies	Description
ONE	Application Exhibits Notebook

Comments

Signed:

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

January 14, 1994

Mr. Thomas A. Walker, PE, CWRE
Senior Associate
W & H Pacific
155 Northeast Revere
Bend, OR 97701

Re: Application File Number G-12905

Dear Mr. Walker:

The Water Resources Department received your May 25, 1993, letter during the 60-day objection period to the Satisfactory Report of Technical Review as reported on Application Number G-12905 submitted by Eagle Ridge Development Corporation.

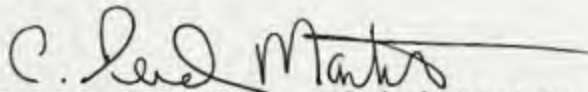
You stated the Report contained an error regarding the location of Well #3. You have asserted the correct location for Well #3 is in the SW 1/4 NW 1/4. The Report describes a point of appropriation within the SW 1/4 SW 1/4.

Department staff have reviewed the map, Application and other relevant data and have determined that an error was made in the Technical Review Report. The map is correct and the map substantiates your statement.

The correct location of the wells or points of appropriation are within SW 1/4, NW 1/4 of Section 14 and SW 1/4, SE 1/4 of Section 15 of Township 15 South, Range 12 East. If a permit is issued on G-12905, it will include the corrected description.

If you have any questions, please let us know.

Sincerely,



A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development Corporation;
Richard Whitman



WATER RESOURCES DEPARTMENT

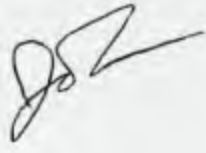
INTEROFFICE MEMO

TO:

File

October 18, 1993

FROM:

John Borden 

SUBJECT: Eagle Crest

For those persons working on the Eagle Crest water right application(s), the enclosure from Bill Smith may be of interest.

RECEIVED

OCT 18 1993

William Smith Properties, Inc.

15 S.W. Colorado Avenue
Bend, Oregon 97702
Phone: (503) 382-6691
Fax: (503) 388-5414

WATER RESOURCES DEPT.
SALEM, OREGON

August 21, 1993

John Borden
Administrator
Water Resources Department
3850 Portland Road NE
Salem, OR 97310

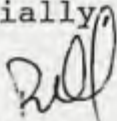
Dear John:

I've enclosed the golf course water analysis that I promised at the WRC meeting in Bend.

It's interesting to compare horses and golf. The horse numbers are low. They consume closer to 50#/day, but I wanted to be biased toward horses. The golf numbers are actual from a typical well built and run Central Oregon course.

Golf courses in the scheme of things use less water, provide more recreation for more people, employ more people, pay more taxes acre for acre than do horses. That's beneficial use.

Cordially



William L. Smith
President

WLS:ts

Enclosure

RECEIVED

OCT 18 1993

WATER RESOURCES DEPT.
SALEM, OREGON

ECONOMIC COMPARISON
ALFALFA AND GOLF

Based on actual records and performance of an operational Central Oregon golf course and an actual farm operation.

Assumptions:

Golf

Golf course	=	123 acres in size
Water Consumption	=	650,000 gpd = 35 inches/year April 15 thru October 15
Annual Rounds of Play	=	35,100
Greens Fees	=	\$34/round
Time/Round	=	4½ hours
Market Value	=	$\frac{\$3,000,000}{123 \text{ acres}} = \$24,390/\text{acre}$
Employees - 22 @ \$9.00/hr	=	5.6 acres/employee
Taxes - market value	=	\$25/1000

Alfalfa

Water Consumption	=	42 inches/year
Production	=	4 tons/acre/year
Revenue	=	\$95/ton
Market Value	=	\$1,000/acre
Employees	=	1/100 acres
Taxes	=	Farm deferral @ 25%

Feed alfalfa to horse @ 25#/day and ride horse 1 hour/day

COMPARISONS

	<u>Golf</u>	<u>Alfalfa</u>
Water consumption per year	35 inches	42 inches
Hours fun per acre	1278 hrs/ac	329 hrs/ac
Revenue generated	\$9,674/ac	\$380/ac
Gallons of water per hr of fun	436 gallons	3556 gallons
Labor in acres per employee	5.5 acres	100 acres
Taxes in dollars per year per acre	\$610	\$6

One golf course is equivalent to 108 horses.

PERMIT		NAME-LAST	NAME-SHORT
1	G	11086	U.S. DESCHUTES NATIO
4	G	11492 SCHLOSSER	
7	G	11732 GRAY	
15	G	11819 MOSAP	PRESIDENT OF INDIAN
24	G	11923	BIG FALLS RANCH CO.
29	G	11975	CRESCENT WATER ASSOC
61	G	12176 COATS	
62	G	12177 STRAND	NORTHWEST FARM CREDI
98	G	12326 HYATT	
103	G	12344	CITY OF PRINEVILLE
121	G	12391	CITY OF WASCO
124	G	12402 GUNZNER	GUNZNER, JUDY E
136	G	12449 OWENS	LEISURE LODGE INC.
143	G	12466 STAFFORD	
150	G	12477 CLARK	CLARK, NIKI; HAY CRE
151	G	12478 CLARK	CLARK, NIKI; HAY CRE
169	G	12500	LA PINE SPECIAL SEWE
178	G	12514 PERRIN	PERRIN, HELEN M
180	G	12517	EAGLE AIR ESTATES HO
182	G	12524 CHAVES	CHAVES, DIXIE
198	G	12549 COX	
200	G	12552 WAIBEL	
214	G	12580 UTZINGER	
216	G	12582	QUAIL VALLEY IMPROVE
246	G	12624 TRENHAILE	TRENHAILE, JO; CAMER
249	G	12627 FESSLER	
262	G	12648	OCHOCO WEST WATER DI
264	G	12650 SMITH	
265	G	12651 WARREN	
266	G	12652 VANDENBERG	
267	G	12653 DAVIS	
275	G	12661 FEHRENBACHER	BAR F RANCHES
299	G	12694 MCCULLOCH	MCCULLOCH, DARLENE
300	G	12697 BARTON	
308	G	12711	BLACK BUTTE RANCH AS
317	G	12731	CITY OF REDMOND PUBL
326	G	12742 MONTGOMERY	
327	G	12743 FEHRENBACHER	
333	G	12751 SIMONS	SIMONS, CLEO
337	G	12757	AVION WATER CO. INC.
355	G	12782 VAVROSKY	TERRACE MOBILE PLAZA
360	G	12796 FLEMING	CROWN PACIFIC LTD.
364	G	12802	BEND GOLF AND COUNTR
365	G	12803 VAN ARSDALE	VAN ARSDALE, ARVILLA
369	G	12807 MORGAN	
381	G	12821 COLLINS	CAMPBELL, DEBBY KAY
383	G	12825	TWIN-BUTTE - SEVERAN
384	G	12826	TWIN BUTTE - SEVEREN
385	G	12827 FERCUSON	
393	G	12835 SINGHOSE	SINGHOSE, SUSAN
395	G	12837 ASHWELL	ASHWELL, BEV
405	G	12849 HEROLD	KELLER, GLEN
427	G	12872 ROGERS	SUNSET VIEW DOMESTIC
430	G	12875	TOLLGATE WATER CO.
437	G	12882 CRISWELL	CRISWELL, SHARON L
453	G	12905	EAGLE RIDGE DEVELOPM

Wildwood Stables
3450 SW 81st Street
Redmond, Oregon 97756

March 14, 1991

(revised 4/17/91) AS

Commissioner Tom Troop
Board of County Commissioners
1130 NW Harriman
Bend, Oregon 97701

RECEIVED

JUN 26 1993

WATER RESOURCES
BEND, OREGON

Dear Commissioner Troop:

Pursuant to our telephone conversation March 13th, I am writing to you, as a Canyon River Territory resident, concerned with Eagle Crest's attempt to annex Canyon River Territory (CRT) properties, deleting these properties from the existing CRT Building and Use Restrictions when the property has been acquired by deed or contract by Eagle Crest Partners, Ltd. A copy of Charles C. Brown Realty's letter is enclosed.

Canyon River Territory is a rural community, composed of approximately forty families, residing on anywhere from five acre parcels to 20 acre parcels, with livestock, horses, pets, gardens, etc. We have established homes and small ranches out here in the canyon, near the Deschutes River and surrounded by BLM land.

We have chosen a rural lifestyle, clean air, fresh water, privacy and peace and quiet among the juniper trees. We ride horseback through the BLM, We have access to the river. We have space for gardens, space for our horses, space between homesites to ensure privacy. Many homeowners here in CRT have retired to their own little chunk of property with a feeling of security in being a land owner.

WE maintain our own roads, enforce reasonable traffic speed out of consideration to our neighbors. We respect one another's rights and property and cooperate for the betterment of the whole when problems arise.

We have agreed to protect the environment and the chosen quality of life for each CRT resident when we signed the existing Canyon River Territory Building and Use Restrictions, recorded 10/16/72.

We have been guaranteed access to the Deschutes River and to the BLM lands. Access roads and fire roads must remain unobstructed.

Because we are an unprotected fire district, we are responsible for maintaining our homes and properties to the best of our ability to prevent fire, and to join together to fight fires should they erupt.

By means of C.C. Brown Realty, as agent of Eagle Crest, Eagle Crest is attempting to annex Canyon River Territory properties, to subdivide these parcels into numerous estate homesites, deleting the properties from the CRT Building and Use Restrictions.

The properties Eagle Crest initially wishes to acquire will encompass and border the river, offering Eagle Crest direct access to BLM lands. It is not inconceivable that Eagle Crest wishes to acquire the entire canyon, with an eye toward additional BLM land acquisitions.

We, residents of Canyon River Territory, have in good faith purchased rural acreage and have adhered to the CRT Building and Use Restrictions in order to maintain a chosen quality of life.

We do not wish to see our land subdivided into estate homes, nor do we wish to be intruded upon by Eagle Crest resort.

We do not want to watch as trees and natural wildlife habitats are bulldozed under.

We do not want increased traffic flow through our neighborhood.

We do want to continue to walk through the quiet juniper woods, or ride peacefully down to the river on horseback.

We are gravely concerned about the environmental impact Eagle Crest has had, and will increasingly have with the addition of more and more homes, more hotels, more golf courses, more people, pollution, and traffic in our canyon.

These are only a few of the concerns we wish to address:

- What guarantees are there that sewage from Eagle Crest septic tanks is adequately contained and is not seeping into ground water or into the river. How will sewage be disposed of when hundreds of new homes are constructed, or another hotel, or fairway condos are erected?

- What guarantees are there that pesticides and fertilizers used to maintain Eagle Crests golf courses will not contaminate ground water or runoff pollute the river?

- What guarantees are there that today, tomorrow, or years to come, we will have enough fresh water for human consumption, irrigation, etc. - when Eagle Crest will require over 4.5 million gallons of water, per day, every day to maintain their golf courses---in addition to excessive water usage for hotels, numerous estate homes, restaurants, etc.

Can the ground possibly absorb all that sewage without contamination? Can our ground water and river water remain unpolluted? Can we be assured that our fresh water table will not be drastically reduced? Will we have water and pressure to protect our area from fire? What happens to the wildlife when forced from their natural riverside and juniper forest habitats?

If Eagle Crest is allowed to buy up our homes and land for additional development, where could we possibly afford to move and hope to duplicate the homes and ranches and quality of life we have established for ourselves here in the Canyon River Territory?

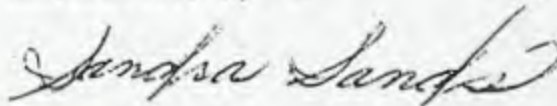
Already this year we have fearfully watched roaring fires blaze on Cline Falls Butte as Eagle Crest clears land for a new 36-hole golf course. One out-of-control fire could wipe out our community. Who will be responsible? Horses have been terrorized by blasting and bulldozing and have broken through fences in a panic. Fences are mysteriously appearing at access roads. Access to the river by CRT residents is threatened by additional Eagle Crest acquisitions, as well as the concern of increased traffic, water, noise and air pollution.

When we purchased property in Canyon River Territory and built our homes and cared for our land, we chose a rural quality of life, in a safe, healthy environment. We did not choose to be part of a resort or a subdivided housing development. We chose a location near the Deschutes River, surrounded by what we believed to be protected, public BLM land.

Can you help us protect and preserve the Canyon River Territory?

I look forward to hearing from you, and remain

Respectfully yours,



Sandra Sands
Canyon River Territory

cc: Barney Lerten, The Bulletin
Chairman Dick Maudlin
Commissioner Nancy Pope Schlangen
Rebecca Leone, Friends of Central Oregon

P.S. - Can you clarify for me exactly what transpired during the Eagle Crest acquisition of BLM land, known as Cline Falls Butte?

178/97

Application No.

Permit No.

G-12905

G-11762

EAGLE RIDGE DEVELOPMENT CORPORATION

PO BOX 1215

REDMOND, OR

97756

Assigned

Address

Beginning construction

Completion of construction

Extended to

Complete application of water

Extended to

5/31/95
10/1/97

10/1/98


BEVERLY CLARNO
Majority Whip
House of Representatives

RECEIVED

FEB 10 1993

WATER RESOURCES DEPT.
SALEM, OREGON

January 28, 1993

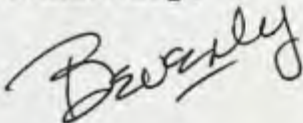
Martha Pagel, Director
Water Resources Department
3850 Portland Road NE
Salem, OR 97310

Dear Martha,

Enclosed please find a copy of a letter from Mr. Jerol E. Andres, outlining his concerns with a water right appropriation application. I would appreciate it if you would respond to Mr. Andres' concerns and send a copy of the correspondence to my office.

Thank you in advance for your help with this issue. If you have any questions or comments, please do not hesitate to contact me at my office, 378-8883.

Sincerely,



Beverly Clarno
Majority Whip
State Representative

Encl.
cc: Jerol E. Andres

BC/gc



FEB 1 REC'D

January 26, 1993

Ms. Bev Clarno, State Rep.
P.O. Box 573
Redmond, OR 97756

Re: Eagle Crest Resort
Water Right Appropriation Applications
526-0101

Dear Bev:

Eagle Crest has spent the past year attempting to gain approval from the Oregon Water Resources Department (OWRD) for water use on a proposed expansion of our resort west of Cline Falls Road. Our efforts to date have been unsuccessful and your assistance is respectfully requested.

On April 28, 1992, Eagle Ridge Development Corporation submitted a water right appropriation application to the OWRD for quasi-municipal use. The water is intended to support a proposed expansion of our resort and include such uses as group domestic, commercial, construction, fire protection, dust control, and irrigation of landscaped common areas. A golf course irrigation permit was obtained previously and uses associated with the golf course are not included in our pending application.

In addition to the standard application and application map, Eagle Crest retained David J. Newton & Associates to complete a hydrogeological study. Pilot and production wells were constructed for the golf course and thorough testing was completed and analyzed. The analysis of the existing wells is included in the David J. Newton study. The David J. Newton study concluded adequate water supplies are available and no interference with other wells or surface water will occur. It is interesting to also note that the conclusion of the David J. Newton study conforms to the conclusions reached by the Bureau of Reclamation, in their Technical Reconnaissance Report study, dated October 1, 1991.

Eagle Crest
P.O. Box 1215
Redmond, OR 97756
(503) 923-0807

Ms. Bev Clarno

- 2 -

January 26, 1993

Our application for a groundwater permit is supported by the City of Redmond and numerous other agencies in the Central Oregon area. Numerous letters have been submitted to the OWRD, soliciting timely permit issuance for Eagle Crest. The City of Redmond believes the expansion of Eagle Crest provides a significant economic benefit to Central Oregon. We are one of Redmond's largest employers, our tax base is of substantial benefit to the Redmond School District, and our company's employees serve in many leadership capacities within our community. An independent consultant has determined that our Eagle Crest expansion will add an additional \$115 million dollars to the regional payroll over the next ten years.

To date, our efforts have resulted in little progress. The OWRD groundwater section did verbally advise us that no interference or other groundwater problems with OWRD are expected. We have heard nothing from the permit section and really don't know what to do.

Over the past years we have worked concurrently on land use approvals for Eagle Crest. We will soon find ourselves with the appropriate land use approvals, but no water supply to enact them. We are also concerned that once a permit is drafted, additional significant delays may occur as a result of appeals from Oregon Water Watch.

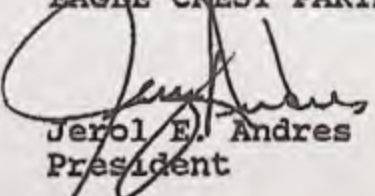
Our experience suggests the OWRD is at a procedural deadlock. I believe the staff at OWRD has done everything in their power to assist us, but are unable to work within their system. The time has come when the procedural problems at OWRD have jeopardized the expansion of Eagle Crest Resort and the associated economic benefit to Central Oregon.

Your review and assistance are respectfully requested. We will be pleased to provide you with any additional information and I recommend that you contact Mr. Tom Walker, P.E. (388-4255) at any time to obtain specific information on our application.

Your assistance is appreciated. I look forward to your response.

Very truly yours,

EAGLE CREST PARTNERS, LTD.


Jerol E. Andres
President

cc: Bill Lyche

~~Jerol E. Andres~~
President

cc: Bill Lyche
Tom Walker



CITY OF REDMOND
DESCHUTES COUNTY, OREGON

455 SOUTH SEVENTH STREET
REDMOND, OREGON 97756
(503) 548-2148

AIRPORT 548-6059
COMMUNITY DEVELOPMENT 548-2149
PUBLIC WORKS 548-6068

June 26, 1992

JUN 29 1992

WATER RESOURCES DEPT.
Salem, OR 97310

Mr. Steve Brown
Oregon Water Resources Department
3850 Portland Road NE
Salem, OR 97310

RE: Eagle Ridge Development Corporation
Water Right Appropriation Application
OWRD File No. G-12905
526-0101

Dear Mr. Brown:

On behalf of the Redmond City Council, I am writing in support of a ground water appropriation application that has been filed to allow for expansion of the Eagle Crest Resort. The City of Redmond strongly supports the Eagle Ridge expansion and, being aware of the critical essence of time in this project, we would urge that the Oregon Water Resources Department review and approve the application as soon as possible.

We realize that your office has a large number of applications to deal with, and limited staff resources. We hope that you will find a way, nonetheless, to grant sufficient priority to this application to reflect its great significance to the economy of this area. Water availability timing is critical to the work that is underway. Because of our short growing season, prompt availability of water could make the difference of an entire calendar year in this project's going "on-line" with its tremendous contribution to the Redmond area economy. Eagle Crest has also been an outstanding corporate citizen, strongly supporting community improvement and benefit projects. Therefore, we will appreciate it greatly if you are able to expedite this vital requirement.

Thank you for your kind consideration.

Sincerely,

Robert C. Riggs
Mayor

ARLU DeCo

P. O. Box 1508 • Sisters, Oregon 97759

June 29, 1993

548-6544

To: Martha Pagel, Director
Oregon Water Resources Department
3850 Portland Road, N.E.
Salem, Oregon 97310

RECEIVED

JUN 30 1993

WATER RESOURCES DEPT
SALEM, OREGON

ATTN: WATER RIGHTS SECTION

From: Jen Twining, Executive Director (y)
Alliance for Responsible Land Use in Deschutes County
(ARLU-DeCo)
P.O. Box 1508
Sisters, Oregon 97759 phone: 548-8643
(Return correspondence to Sandra Sands, c/o above address)

Re: OBJECTION TO TECHNICAL REPORT FOR G-12905
EAGLE RIDGE DEVELOPMENT CORP.

ARLU-DeCo requests the following testimony be submitted into the record of G-12905: Objections to the Report, Public Interest Statements, and all Exhibits. This entire written testimony is to remain in G-12905 record, even though portions of, or all of the objections may be denied by the Department.

ARLU-DeCo SUBMITS THE FOLLOWING OBJECTIONS AS REQUIRED BY OAR 690-11-170:

THE TECHNICAL REPORT IS DEFECTIVE, AS THE REPORT FAILS TO INCLUDE MANY OF THE ELEMENTS REQUIRED IN OAR-11-160 (1) and (6).
DEFICIENCIES ARE AS FOLLOWS:

A. The report neglects to identify defects in the application and supporting data [OAR-690-11-160 (1)(a)].

B. The report neglects to assess whether the proposed use is restricted or prohibited by statute [OAR-690-11-160 (1)(b)].

C. The report fails to assess the proposed water use with respect to conditions previously imposed on permits granted for use of water from the same source OR for the same category of beneficial use [OAR-690-160 (1)(c)].

PREVIOUS CONDITIONS ARE NOT INCLUDED IN THE REPORT, AND THERE IS NO ASSESSMENT. NOTE: *Eagle Crest's previous water application G-12429 (Permit G-11313) contained no conditions due to a Department staff error (see Exhibit A). ARLU-DeCo requests the report to include this error.

Chairman
Bill Boyer

Vice Chairwoman
Marion Millard

Board Members
Gladys I. Bigler
Bob Brockway
Alice Kochler
Maret Pajutec
Dorothy Schoonmaker
Sandra Sands
Jen Twining, Exec. Dir.

D. The report fails to assess the proposed water use with respect to other Commission Administrative Rules [OAR-690-11 (1)(d)(A)(B)(C)].

The Alliance for Responsible Land Use in Deschutes County

E. The report neglects to evaluate the potential conflict with existing water rights [OAR-690-11-160 (1)(E)]. The report simply states there are other existing water rights, and refers the reader to Permit Conditions. The report neglects to provide an evaluation of the potential conflicts with existing water rights, including surface water rights that could be effected by the proposed groundwater withdrawal.

F. The report fails to evaluate the extent to which water is available from the proposed source during the time(s)-AND-in the amount(s) requested in the application [OAR-690-11-160(1)(f)]. The report states conclusions only, and DOES NOT include an evaluation of data that leads to the conclusion. THE REPORT MUST INCLUDE THE EVALUATION DATA - REFERRED TO AS THE GROUNDWATER/HYDROLOGY SECTION REPORT. ARLU-DeCo requests the opportunity to EVALUATE and RESPOND to this evaluation process and the data base used to reach the conclusions. We hope the data is more complete than the data contained in Exhibit B. That report (on G-12429) identifies itself as being "brief".

ARLU-DeCo is concerned that permits are being issued for large groundwater quantities WITHOUT an indepth and comprehensive process of review. We question whether the Department is protecting the public's water resources, as required by statute and rule.

G. The report does NOT include an evaluation of whether the amount of water requested is necessary to achieve the proposed water use [OAR-690-11-160 (1)(9)]. THE REPORT IS NOT CLEAR IF THE "900" FAMILIES INCLUDE THE "500" HOMESITES IDENTIFIED IN G-12429 APPLICATION OR NOT-(see Exhibit C). If they are included, then G-12905 should be requesting water for only "400" families, not "900" families.

H. The report does NOT evaluate information received from local governments regarding compatability of the proposed use with land use plans and regulations [OAR-690-11-160 (1)(h)]. Apparently the Department HAS NOT RECEIVED THE REQUIRED LAND USE INFORMATION FROM THE COUNTY. ARLU-DeCo believes this land use information is critical for the Department to have for this permit review process.

*The County has chosen to implement the optional Goal 8 destination resort siting requirements. In January of 1992, the County adopted four ordinances for Goal 8. ARLU-DeCo appealed these ordinances to LUBA. TWO OF THE FOUR ORDINANCES WERE REMANDED BACK TO THE COUNTY. The two remanded ordinances

have PREVENTED Eagle Crest from making a CONDITIONAL USE APPLICATION based on the Goal 8 criteria. The Court of Appeals upheld LUBA's decision.

TO DATE, THE COUNTY HAS TWO GOAL 8 ORDINANCES THAT ARE NOT ACKNOWLEDGED. UNTIL THESE ORDINANCES ARE ACKNOWLEDGED, EAGLE CREST CAN NOT MAKE APPLICATION FOR THEIR CONDITIONAL USE PERMIT FOR RESORT EXPANSION.

If, and when, Eagle Crest has an ACCEPTED APPLICATION with the County, there will be considerable opposition to the application. The conditional use will be heard before a Hearing's Officer. The Hearing's Officer's decision can be appealed to the Board of County Commissioners. The Board's decision can be appealed to LUBA, then to the Court of Appeals, and finally to the Supreme Court. It could take years for Eagle Crest to obtain land use permits - if indeed, they ever do.

ARLU-DeCo recommends that the Department obtain copies of the four destination resort ordinances - once they are acknowledged. The ordinances contain standards and criteria involving not only groundwater, but other issues listed in OAR-690-11-195 (3)(4).

ARLU-DeCo recommends that the Department obtain copies of Eagle Crest's application with accompanying reports, maps, etc./staff report/consulting reports/public testimony/and other relevant file materials. We believe it is important to COMPARE THE DATA SUPPLIED TO THE COUNTY AGAINST THE DATA PRESENTED TO THE WATER RESOURCES DEPARTMENT. This comparison will identify any discrepancies that exist between the two sets of information, so clarification of data can be achieved. There are already questions arising between the County's information and the Department's information - such as the number of families/homesites that will be served by the proposed use in the resort expansion area.

Reviewing the County's record will also provide the Department with an opportunity to check compliance with State and Federal laws.

*ARLU-DeCo requests that the Department DEFER the G-12905 permit issuance, until, and if, Eagle Crest receives the required land use permits from the County. This seems prudent and logical. THE WATER PERMIT WILL NOT EXPEDITE THE LAND USE PERMITTING PROCESS.

I. The Technical Report fails to respond to the requirement

in OAR-690-11-160(6) - review discussion previous page in Section H.

J. COMMENT ON PROPOSED PERMIT CONDITIONS:

#3 - requested rate was 4 CFS. How did the Department arrive at 3 CFS?

#6 - ARLU-DeCo fails to understand how this imposed condition protects the ground and surface water resources. This condition APPEARS to protect the proposed use and possibly the source - but neglects to protect other rights on the source, and provides NO PROTECTION FOR SURFACE WATERS THAT COULD BE IMPACTED BY THE PROPOSED USE.

The 25-foot decline standard makes the assumption that the source can withstand a 25-foot decline - regardless of the aquifers depth and fluctuations during drought.
*WE SUGGEST THAT THE SOURCE'S DEPTH BE MEASURED PRIOR TO THE CONCLUSION OF THE PUBLIC INTEREST REVIEW IN ORDER TO PROTECT THE BASIN'S SURFACE AND GROUND WATER RESOURCES.

#7 - (B) and (C) - Dates should be identified only AFTER LAND USE PERMITS ARE IN PLACE. HENCE, THE WATER PERMIT MUST WAIT, ALSO.

#9 - Detail the specific technologies and practices to be followed. Current language is too general and not specific enough to provide adherence by the applicant.

#10 - The specific rotation system should be identified, or identify by proper title the "proper State Officer".

#12 - It appears that the Department has not had direct contact with the County regarding Eagle Crest's land use permit situation. The Department apparently accepts "hearsay" from applicants. As ARLU-DeCo explained earlier in this objection, THERE IS NO GUARANTEE THAT EAGLE CREST WILL RECEIVE LAND USE PERMITS.

#13 - The Department should require water level or pump test reports annually, considering the use amount, the County's rapidly increasing growth which puts greater demands on the Basin's water resources, and in light of the fact that the groundwater supply is an "unknown quantity".

- #14 - The language in this condition leads ARLU-DeCo to question if this condition allows the use amount to be increased beyond the permitted amount, if there should be a transfer of the point of diversion.

THE PROPOSED USE IS NOT IN THE PUBLIC INTEREST

A. THIS APPLICATION WAS PROCESSED OUT OF ORDER. (see EXHIBITS D, E, and F). It is apparent that this application has been "brought forward" in priority to process - due to political pressure. The applicant induced guilt on the Department. In an obvious attempt to manipulate the process, the applicant changed the intended use to expediate the process (appears to have been agreed upon prior to the letter).

ARLU-DeCo strongly opposes such tactics in order to process the permit more rapidly. This tactic gives seniority water rights to Eagle Crest over other applicants whose submitted dates are senior to Eagle Crest's. WE FORMALLY OBJECT AND REQUEST THAT G-12905 BE REPLACED TO ITS ORIGINAL PROCESSING ORDER, AND THAT THE ORIGINAL INTENDED USE BE RESTORED. Eagle Crest must wait in line along with other applicants. This tactic surely violates process regulations. Additionally, surface water application dates were not considered when prioritizing the review dates.

B. The G-12905 application MUST BE REVIEWED BY THE COMMISSION FOR THE FOLLOWING REASONS:

(1) The Commission stated concern about issuing permits to destination resorts when insufficient ground water information exists. (See WRC Transcript 7/17/92, pages 11-12).

(2) There have been numerous questions raised about the order of review in relationship to ethical and regulatory standards.

C. OAR 690-11-195(3)(a) - The Department should obtain GROWTH PROJECTIONS FOR THE COUNTY, AND EVALUATE HOW THE EVER-INCREASING DEMANDS ARE IMPACTING THE SURFACE AND GROUND WATER SUPPLIES IN THE BASIN.

D. OAR 690-11-195(3)(d) - see EXHIBIT G. This exhibit expresses public values on recreation, fish and wildlife, destination resorts, etc. Note: important data are identified by large brackets for easier review. Also, by reference, we wish incorporated into the record, the RIVER STUDY (Desch. Co./ Bend)

published April 1986. The RIVER STUDY addresses issues of water and wildlife, and Goal 5 resources in the Deschutes Basin. (copy is available from the County).

E. THE PROPOSED USE IS NOT COMPATIBLE WITH LAND USE GOALS, COMPREHENSIVE PLANS, OR OTHER LAND USE MATTERS [OAR 690-11-195(4)(b)]. As one example: the County is in violation of Goal 5, as the County has NOT INVENTORIED THE QUALITY AND QUANTITY OF GROUND WATER RESOURCES, AS REQUIRED BY GOAL 5.

F. THE PROPOSED USE IS NOT COMPATIBLE WITH ENVIRONMENTAL CONCERNS [OAR 690-11-195(c)(A)(B)(C)(D)].

*WATER QUALITY - the use may interfere with surface waters in the Basin, causing lower water levels and temperature increases, which can lead to pollution of the surface waters and possible declines in recreational opportunities and to aquatic species. Reference RIVER STUDY. Enter EXHIBITS H AND I into the record as testimony by ARLU-DeCo on G-12905.

*WATER QUANTITY - See EXHIBITS H AND I

*AIR POLLUTION - The expansion of Eagle Crest will introduce and increase vehicle emission fumes, and increase pollution from woodstove burning. (900 homesites). Vehicle travel will be increased greatly due to the resorts rural location.

*TRANSPORTATION CONGESTION - The Eagle Crest expansion will create a tremendous increase in traffic in that specific rural area. The expansion will require - widened highways, relocated roads and highways, and the installation of an interchange. INCORPORATE INTO THE RECORD BY REFERENCE THE "TRAFFIC IMPACT ANALYSIS FOR THE PROPOSED EAGLE CREST RESORT EXPANSION", BY KITTELSON & ASSOC., APRIL 1992. (copy may be obtained from Eagle Crest or the County).

*SOIL CONTAMINATION - The pesticides and herbicides used on Eagle Crests golf courses, lawns, etc. will contaminate the soils and will eventually run off into surface waters, or be absorbed into the aquifers (constant irrigation of 900 lawns and two golf courses enhances permeability directly into the groundwater in a concentrated area). Both surface water and ground water have apparent contamination potential from Eagle Crest's proposed water uses, as well as potential for soil contamination. *Eagle Crest's proposed use of septic systems to accommodate its expansion (900 homesites) will have great potential for contamination of both the soil and ground water and surface water. In addition to 900 homesites, Eagle Crest's expansion is proposed to include a 250-unit hotel and restaurant.

G-12905
ARLU-DeCo
June 29, 1993
Page 7

G. THE PROPOSED USE IS NOT COMPATIBLE WITH THE OTHER NATURAL RESOURCES WHICH ARE PRESENT IN THE DESCHUTES BASIN [OAR 690-11-195(4)(d)(A)(B)(C)(D)]. ARLU-DeCo's testimony pertaining to these issues:

- (1) Read the RIVER STUDY (incorporated by reference)
- (2) Read EXHIBITS H AND I
- (3) Read and evaluate the Deschutes County Goal 5 policies and ordinances (incorporated into the record herein by reference)
- (4) Read EXHIBITS J AND K. These recent articles are used as examples of wildlife concerns that exist in the Basin. The spotted owl and other threatened or endangered species are also located in the Deschutes Basin.

*** To encourage or permit large urban-type development like destination resorts onto the rural lands provides great conflict with wildlife and decreases the wildlife habitat, including riparian habitat - due to ever-increasing development encroachment. This continual and extensive encroachment by development cannot be mitigated, as there is "no where else for the wildlife to go". It is too late for mitigation efforts.

- (5) Read EXHIBITS L AND M - Incorporate into the record of G-12905 as ARLU-DeCo's testimony. L and M address wildlife habitat, riparian areas, watershed protection and ground and surface water quantity and quality

CONCLUSION: ARLU-DeCo INTERPRETS THE TECHNICAL REPORT TO BE INCOMPLETE AND INCONCLUSIVE. THE REPORT MUST BE REVISITED FOR COMPLETENESS, AND ACCURACY, AND TO MEET THE REQUIREMENTS, AND TO ALLOW THE OBJECTORS AN OPPORTUNITY TO EVALUATE THE REPORT.

ARLU-DeCo BELIEVES THE PROPOSED USE IS NOT IN THE PUBLIC INTEREST, AND, THEREFORE, THE PERMIT MUST BE DENIED. THE APPLICANT HAS NOT PROVIDED EVIDENCE AND PROOF THAT THE PROPOSED USE WILL NOT IMPAIR OR BE DETRIMENTAL TO THE PUBLIC INTEREST.

ARLU-DeCo IS OPEN TO DISCUSSION WITH THE DEPARTMENT AND THE APPLICANT ON ALL OF THE ISSUES RAISED IN THE "OBJECTIONS TO THE TECHNICAL REPORT".

Thank you for your careful consideration.

CC: Chairman, Water Resources Commission

April 29, 1993

C.T. THOMAS
3201 SW 73RD ST
REDMOND, OR 97756

REFERENCE FILE: G-12905

Thank you for your letter regarding Eagle Ridge Development Corporation's request for a ground water permit.

We recently mailed a technical review to them. A copy is enclosed along with the cover letter.

I direct your attention to the first three paragraphs of the second page of the cover letter. Your evidence and objections must be received in our office by 5 P.M. June 30, 1993.

Sincerely,

Thomas E. Shook
Water Right Specialist



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

HYDROGEOLOGIC STUDY

**EAGLE CREST PHASE II
SUPPLEMENTAL FINDINGS**

HYDROGEOLOGIC STUDY
EAGLE CREST PHASE II
SUPPLEMENTAL FINDINGS

PREPARED FOR:
EAGLE CREST PARTNERS, LTD.
P.O. BOX 1215
REDMOND, OREGON 97756



DAVID J. NEWTON ASSOCIATES, INC.

September 30, 1993



DAVID J. NEWTON ASSOCIATES

INCORPORATED

Civil and Geological Engineering Services

September 30, 1993

Mr. Bill Lyche
EAGLE CREST PARTNERS, LTD.
P.O. Box 1215
Redmond, Oregon 97756

Re: Eagle Crest II Supplemental Hydrogeologic Findings

Dear Mr. Lyche,

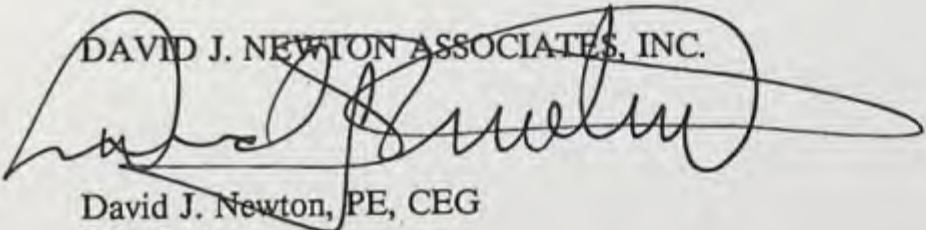
David J. Newton Associates (DNA) has completed a supplementary study of hydrogeology at the Eagle Crest II destination resort west of the City of Redmond, Deschutes County Oregon. This supplemental study includes a micro computer program analysis of long-term impacts to groundwater from pumping of irrigation well HR-1 and an analysis of potential impacts on surface water stream flows from pumping groundwater wells at Eagle Crest II.

Our study shows that it is unlikely that water level impacts would be discernable beyond a few tens of feet from HR-1. Also, groundwater withdrawals would have no impact to the surface water stream of the Deschutes River within ten miles downstream of the site.

It has been our pleasure to conduct this supplemental investigation for Eagle Crest II. If we can be of additional service or if you have any questions, please do not hesitate to call.

Sincerely,

DAVID J. NEWTON ASSOCIATES, INC.



David J. Newton, PE, CEG
Principal

- (1) addressee
- (2) Mr. Tom Walker, W & H Pacific
- (1) Mr. Richard Whitman, Ball, Janik & Novack
- (1) Mr. Steve Brown, Oregon Water Resources Department

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- Table 3 - Deschutes River Flows Below Bend
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Appendices:

- Appendix A - Computer Program Printouts
- Appendix B - Letter from W & H Pacific

HYDROGEOLOGIC STUDY

EAGLE CREST PHASE II SUPPLEMENTAL FINDINGS

I. PURPOSE AND SCOPE

This report presents supplemental findings of a hydrogeologic study for the proposed expansion of the Eagle Crest destination resort, in Deschutes County, Oregon (Figure 1, "Geologic Map of the Redmond Area, Oregon). The proposed expansion is referred to as Eagle Crest II.

David J. Newton & Associates, Inc. prepared a study, entitled Hydrogeologic Study - Eagle Crest Phase II, in April 1992. Since completion of the study, Eagle Crest has proceeded with land use action and water right applications to support their proposed destination resort expansion. Numerous reviews have occurred and additional analysis completed for several issues.

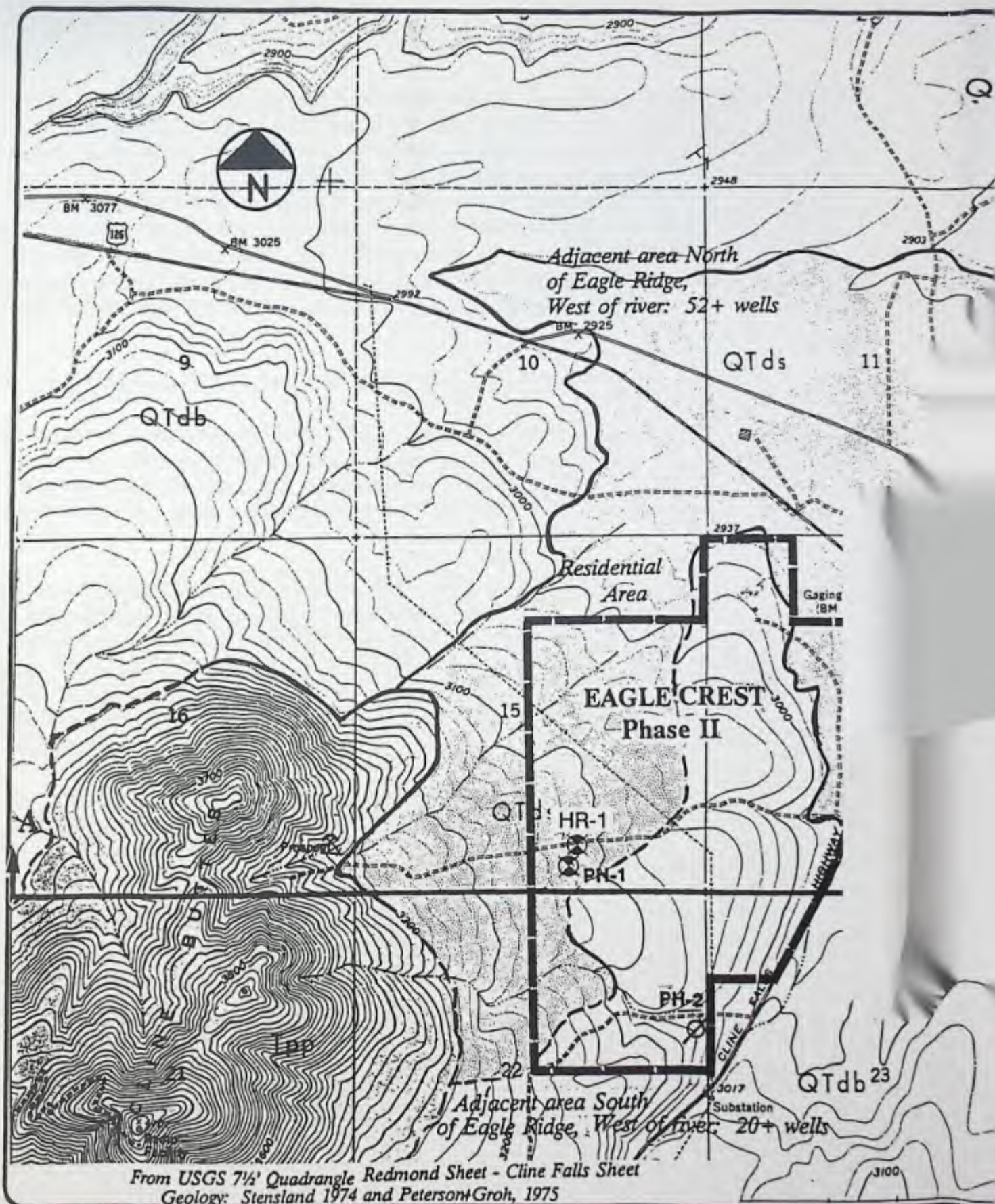
The April 1992 David J. Newton & Associates, Inc. study was utilized in recent land use action proceedings for Eagle Crest II. As a part of that land use action, Deschutes County retained Mr. Joseph B. Gonthier, hydrologist, to conduct an independent technical review of the Newton study. Mr. Gonthier's comments were generally favorable and expressed support and agreement. Mr. Gonthier did however, recommend a "simple paper or desk-top model evaluation" of the supply well site. He also indicated that based on this analysis, the size of the area affected by long-term pumping should be estimated. This supplemental report includes the analysis recommended by Mr. Gonthier.

Mr. Gonthier's review is entitled "Technical Review of Eagle Crest, Phase II Hydrogeologic Study-David J. Newton & Associates, Inc.", and was dated October 1992. Mr. Gonthier's work was completed for Mr. Dale VanValkenburg, Assistant Planner for the Deschutes County Planning Division in Bend.

This supplemental report is intended to be a part of the prior David J. Newton & Associates Inc. study, and the analysis, findings, and conclusions of the original report are not repeated.

In sum, this supplemental study includes:

- A micro computer program analysis of long-term impacts to groundwater from pumping of irrigation well HR-1 at Eagle Crest II, and
- An analysis of potential impacts on surface water stream flows, from pumping groundwater wells at Eagle Crest II.



DATE

3/27/92

PROJECT NO.

215 192



DAVID J. NEWTON ASSOCIATES
INCORPORATED
CIVIL & GEOLOGICAL ENGINEERING

Eag1



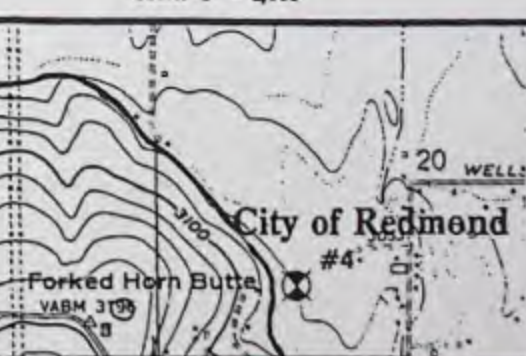
EXPLANATION

- Qal** Alluvium
Unconsolidated fluvial deposits of silt, sand, and gravel along streams and valley bottoms.
- Qfs** Landslide Deposits
Slumped blocks of sediment, tuff, and basalt along canyon walls.
- Qb** Basalt Flows
Intracanyon and plateau-forming pahoehoe flows of medium gray dirty basaltic aphanitic basalt.
- QTds** Deschutes Formation
Volcanic sediments and ash flows. Fine vitric tuffs, cindery ash and lapilli tuffs, pumice lapilli tuffs, other air-fall tuffs, and volcanic breccia, interlayered with fluvial sands, conglomerates, and breccia, some colluvial sand. Also included are at least three distinctive ash-flow tuffs that range from welded to non-welded.
- QTdb** Basalt Flows
Mainly plateau-forming and intracanyon flows with some thin flows interbedded with QTds. Color ranges from medium to dark gray and texture from platy dense to porphyritic and diktylatic varieties.
- Qtdm** Mudflow Breccia
Non-sorted, non-stratified, angular debris, predominantly cobbles, boulders, and blocks of dark-gray to black vitrophyre with large detached blocks of stratified sediments and tuffs.
- Qtdc** Cinder and Lava Mounds
Prominent cones and low elongate mounds of cinders, scoria, and associated basalt flows and probable vents for some of the QTdb flows. Also includes dikes of basalt and basaltic andesite.
- Dike**
Pre-Pliocene Rocks

GEOLOGIC SYMBOLS

- Contact**
Definite contacts
Approximate contacts
Inferred contacts
Concealed contacts
- Fault**
Definite faults, bell on downthrown side
Approximate faults
Inferred faults
Concealed faults
- Strike and dip of beds
- Water Supply Wells**
Abandoned Exploratory Boring
Schematic Cross Section

Scale: 1" = 2,000'



In addition, as requested by the Oregon Water Resources Department, Eagle Crest refiled its groundwater appropriation application in May of 1992. The application has been reviewed by the groundwater and permit sections of the Water Resources Department. A report of technical review was issued on April 19, 1993 and subsequently distributed for review and comment. Several objections were received, including references to the potential for surface water interference from long-term groundwater pumping even though the Oregon Water Resources Department (OWRD), groundwater section concluded there is no significant potential for surface water interference. Additional analysis of this concern was authorized by Eagle Crest and is included in this supplemental report.

II. CONCEPTUAL MODELING OF LONG TERM GROUNDWATER PUMPING

The objective of preparing and evaluating a conceptual model for this project is to generate a conservative estimate of the magnitude and extent of the cone of depression, or the area of pumping impact, by simulating a prolonged period of pumping. These type models are useful for planning purposes and provide an order of magnitude simulation of pumping impacts.

Wells have been constructed and tested at Eagle Crest II as described in the original report. A supply well was pumped in steps, at increasing rates, for a total of eight hours. Pumping water levels were monitored carefully in the pumped well, and the observation well 35 feet away. Water level draw down in the observation well did not exceed one tenth of one foot at the end of the eight hour test. Mr. Gonthier voiced agreement that adequate water supplies are available from the aquifer system, but did recommend further analysis of long-term pumping.

The conceptual model used here incorporates assumptions based on the earlier pumping test results and a range of typical published values for aquifer characteristics. The results have been compared to the actual outcome of the testing in order to determine the accuracy of the analysis. Some difficulty was encountered in comparing the conceptual model to the actual data. The modeling indicated that there should have been more drawdown in the adjacent observation well than was actually observed. This information indicates that the modeling efforts are conservative in their assumptions, ie. they indicate a greater impact on the observation well than actually occurred.

The conceptual model used is one that was written for designing pumping tests and was prepared by Walton (1987). It solves equations which project water level declines at five radial distances from the pumping well and at logarithmically spaced time intervals up to a defined limit. Several runs of the algorithm were made in order to allow the input of varying aquifer characteristics. Initial runs were used to simulate the observed results of the 8-hour pumping test on the production well, HR-1, with the smaller diameter well, PH-1, used as an observation well approximately 35-feet away. Results of that effort were then used to define aquifer characteristics for projecting pumping impacts over a longer period

of use. Actual drawdown during the testing was 1.67 feet in HR-1 and 0.1 feet in PH-1 after 8-hours pumping at an average flow rate of 1050 gpm. The computer simulation results for the testing are shown below. Simulation efforts were unable to closely mimic drawdown at the pumping well. This is likely due to well design/construction head losses which result in a greater drawdown than would occur in a perfectly efficient production well. The modeling efforts were therefore configured to simulate drawdown in PH-1 which would be less susceptible to these effects.

Simulation of the actual well testing and the projected drawdown during continuous long term pumping assumed a range of hydraulic conductivity of from 20,000 gpd/ft² to 60,000 gpd/ft², pumping rate of 1050 gpm and artesian aquifer storativity of 1E-3. Table 1, "Results of 8-Hour Aquifer Test Simulation" shows results of the computer simulation of the HR-1 well testing. Table 2, "Results of 30-Day Pumping Simulation" describes the anticipated drawdowns resulting from pumping of well HR-1 continuously at 1050 gpm for a period of 30-days. The original printouts of the computer program runs are included in Appendix A.

TABLE 1-RESULTS OF 8-HOUR AQUIFER TEST SIMULATION

Hydraulic Conductivity (gpd/ft ²)	Drawdown (ft) at HR-1	Drawdown (ft) at PH-1	Drawdown (ft) at 10,000 ft. Radius
20,000	0.46	0.29	0.04
30,000	0.31	0.20	0.03
60,000	0.16	0.11	0.02

TABLE 2-RESULTS OF 30-DAY PUMPING SIMULATION

Hydraulic Conductivity (gpd/ft ²)	Drawdown (ft) at HR-1	Drawdown (ft) at PH-1	Drawdown (ft) at 10,000 ft. Radius
20,000	0.69	0.52	0.27
30,000	0.53	0.41	0.24
60,000	0.36	0.30	0.22

The drawdown predicted for HR-1 does not account for friction losses resulting from well

design/construction. Actual drawdown at HR-1, based on the eight-hour testing and allowances for friction losses is anticipated to be larger than predicted, on the order of two to three feet. The modeling also assumes a uniform, flat initial piezometric surface or "groundwater table". Actually, a gradient exists that slopes northward. This gradient will tend to impart an elongation of pumping impacts in a down gradient direction and a contraction or reduction in extent of impacts in an east-west direction.

According to reports by W & H Pacific, (see letter in Appendix B), well HR-1 has been pumping daily for the entire 1993 pumping season to date. Recent water level monitoring by W. H. Pacific using an air line shows a water level of 519 feet in the observation well PH-1. This value is similar to that recorded at the end of the eight-hour HR-1 pumping test in 1992, and shows that actual long-term drawdowns due to HR-1 pumping are less than predicted by the 30-day modeling simulation. After a full season of pumping HR-1, no measurable difference in the PH-1 water level could be detected.

In summary, the modeling efforts predict a drawdown of approximately 0.30 to 0.52 feet at PH-1 and 0.22 to 0.27 feet of drawdown at a distance of 10,000 feet from the pumped well HR-1, after a period of 30-days. Field measurements, however, demonstrate actual drawdown at PH-1 unchanged after a full season of irrigation pumping. As a result, given that PH-1 is 35-feet from HR-1, it is unlikely that any drawdown could be detected at a radial distance of 10,000 feet from the pumping well and there is no potential for significant interference with other wells in the area.

III. POTENTIAL FOR SURFACE WATER INTERFERENCE FROM GROUNDWATER PUMPING

The potential for surface water interference from the pumping of groundwater wells is typically considered over the nearest reach of a nearby surface water stream. In this case, existing and proposed wells will be no closer than 2,000 feet from the Deschutes River. The Deschutes River is the only surface water stream in close proximity to Eagle Crest.

The potential for surface water interference in the adjacent reach of the river was analyzed in great detail in the original Newton study. The original study concluded, and Mr. Gonthier agreed, that pumping from the groundwater system will not directly affect the flow of the river, because the Deschutes River is perched above the groundwater system. Test pumping of the existing well also demonstrated a very small cone of depression or influence and again demonstrates that interference with the adjacent reach will not occur.

The Division 9 Administrative Rules of the Oregon Water Resources Department address the potential for surface water interference and establish criteria for evaluation of this potential. The groundwater section of the Water Resources Department found no potential for interference in their technical review of the Eagle Crest application. We agree with these conclusions, particularly under the criteria established in the Division 9 rules.

Some concerns have been raised by objectors to the technical report over the long-term potential for interference at more distant reaches of the Deschutes River. To evaluate these concerns, some review of the Deschutes River basin surface water and groundwater system is pertinent.

Generally, the upper reaches of the Deschutes River basin allow very efficient infiltration of precipitation. Significant quantities of snow melt and rain enter surface water and groundwater systems along the eastern edge of the Cascade Mountains. Both surface water and groundwater flows from south to north, toward the Columbia River. As discussed above, some reaches of the Deschutes River are perched above the groundwater table, as they are in the vicinity of Eagle Crest. Further north however, near Lake Billy Chinook in Jefferson County, the regional groundwater table intercepts the surface water system and significant groundwater discharge to the Deschutes River occurs. This discharge is evident in numerous springs and significant increases in surface water flows, beginning roughly six miles upstream of the lake. In our initial report we documented that the Eagle Crest wells draw from this regional aquifer.

The attached Deschutes River Water Flow Rate Exhibit map, Figure 2, documents Deschutes River flow rates, as measured at selected points by the Deschutes County Watermaster's office in May of 1992. The exhibit map clearly demonstrates the significant inflow that occurs in the short reach of the Deschutes River, immediately upstream from Lake Billy Chinook.

It is interesting to note that 1992 was the end of an extended drought period in Central Oregon. Flows in the Deschutes River, during the Watermaster's stream gauging work, were very low. Table 3, "Deschutes River Flows Below Bend", obtained from the Oregon Water Resources Department, documents Deschutes River flows, below Bend, Oregon, for the 1991/1992 water year. The Water Resources Department table demonstrates the flows measured in May of 1992 were taken during a minimum stream flow period for the Deschutes basin.

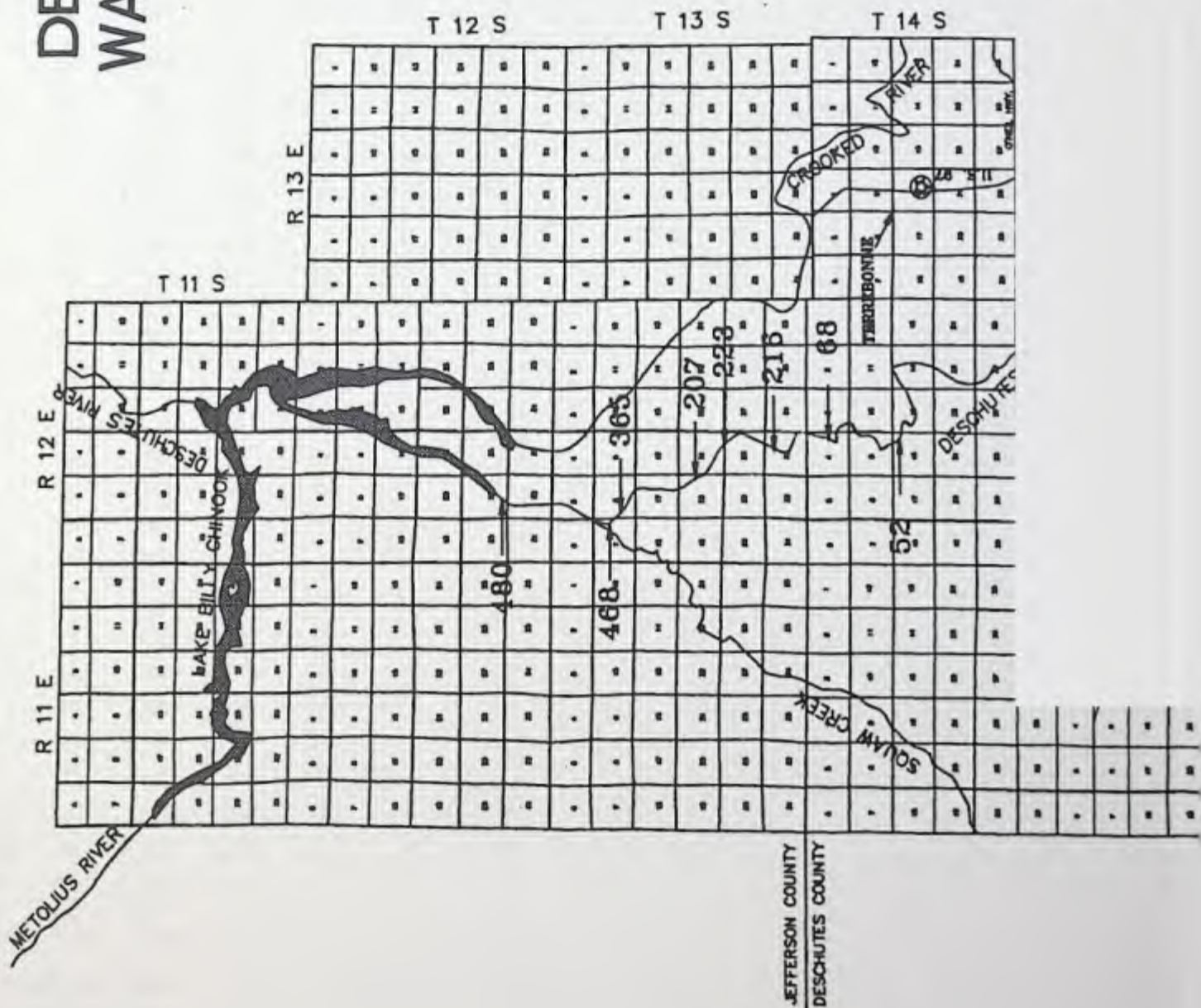
With this background, the potential for surface water/groundwater interference can be explored. To assist in this evaluation, we compiled a summary of pending in-stream water right applications for this stretch of the Deschutes River. The Oregon Fish & Wildlife Department filed an in-stream water right application for the Deschutes River, between the north canal dam in Bend and the Round Butte Reservoir. The application requests a minimum in-stream flow of 250 cubic feet per second for all months of the year. The Oregon Department of Fish & Wildlife also filed an in-stream water right application for that reach of the river between Pelton regulation dam and the mouth of the river, with minimum flows varying from 3,500 cubic feet per second to 4,500 cubic feet per second. These in-stream water right applications are summarized on Table 4, "Pending Deschutes River In-Stream Water Rights Applications".

Based upon the interaction between the regional groundwater aquifer and the Deschutes

FIGURE 2

DESCHUTES RIVER WATER FLOW RATE EXHIBIT

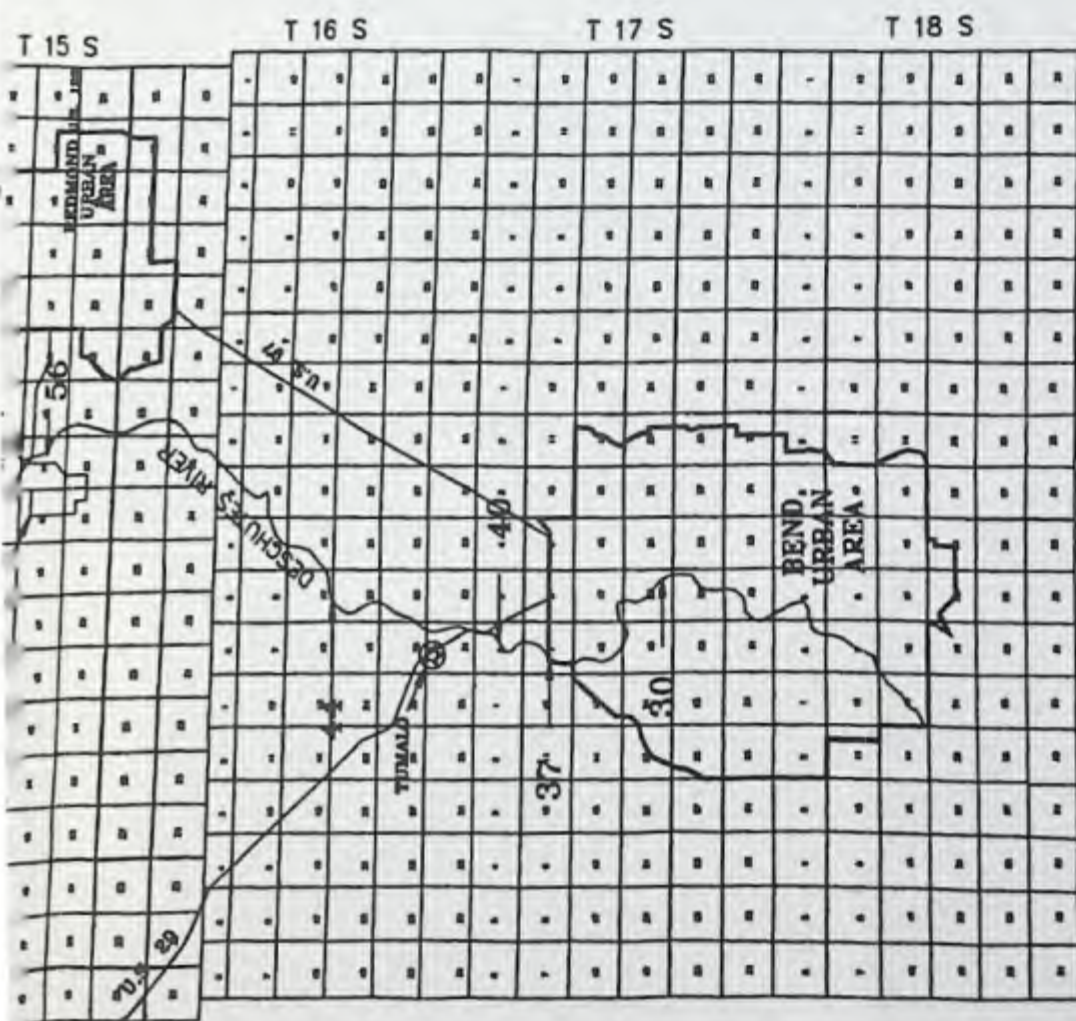
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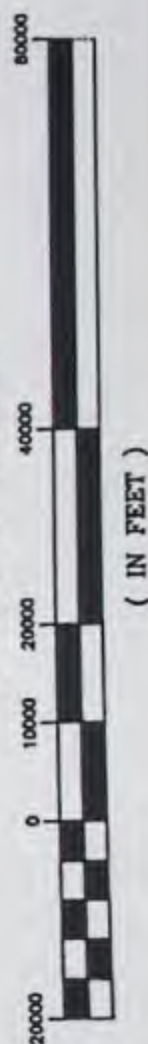
480 — DISCHARGE IN CFS FOR
SELECTED POINTS
MAY 11-15 1992

480 — DISCHARGE IN CFS FOR
SELECTED POINTS
MAY 11-15 1992



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GRAPHIC SCALE



WHPACIFIC

155 N.E. REVERE

TABLE 3-DESCHUTES RIVER FLOWS BELOW BEND

Oregon water resources

14070500 DESCHUTES RIVER below BEND, OREGON

LAT 44 04 59 LONG 121 18 24 S DA 1899.0 DATUM 3503.96 CO DESC

DAILY DISCHARGE IN CUBIC FEET PER SECOND WATER YEAR Oct. 1991 TO Sep. 1992

Day	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	Jun	Jul.	Aug.	Sep.
1	234	407	484	401	398	430	164	35	32	26	23	27
2	36	400	458	399	430	289	37	34	31	28	23	26
3	35	397	418	403	427	173	38	34	31	27	23	24
4	39	376	400	402	409	185	39	33	32	27	21	24
5	35	362	406	409	406	191	39	33	32	27	22	25
6	33	367	425	405	398	294	38	34	32	27	24	25
7	33	365	491	404	398	425	38	32	31	27	23	24
8	34	363	492	389	400	421	37	32	31	28	23	24
9	34	390	387	385	400	419	38	32	30	26	23	24
10	44	395	350	390	399	424	66	33	33	28	23	24
11	38	265	353	395	398	415	36	31	33	28	23	24
12	40	190	349	391	398	413	35	31	33	26	23	24
13	41	215	441	373	398	412	40	32	31	27	23	24
14	46	222	500	395	398	408	34	31	32	27	23	23
15	45	322	457	395	403	409	31	31	31	27	24	23
16	40	414	310	393	405	411	42	31	32	26	24	33
17	42	437	192	403	406	411	24	40	30	25	25	25
18	102	300	197	406	407	413	36	35	29	25	24	25
19	605	197	210	401	405	411	25	34	29	25	24	25
20	563	210	327	240	404	412	43	34	29	25	26	25
21	388	210	418	180	416	411	46	33	28	26	26	25
22	350	297	418	186	424	409	32	34	27	26	27	26
23	334	468	411	153	450	406	31	33	27	26	28	26
24	331	418	409	229	299	399	31	32	27	26	29	28
25	333	402	409	351	240	403	31	33	26	26	27	26
26	356	399	387	358	194	398	30	31	26	26	28	26
27	351	418	378	265	171	401	33	31	27	27	30	26
28	352	468	375	135	269	396	36	30	25	46	28	27
29	359	489	398	154	395	405	37	31	26	24	29	27
30	384	500	422	154	-----	405	35	31	27	24	30	27
31	404	-----	413	203	-----	401	-----	31	-----	23	29	-----
TOTAL	6061	10663	12085	10147	10945	11800	1222	1012	890	832	778	762
MEAN	196	355	390	327	377	381	40.70	32.60	29.70	26.80	25.10	25.40
MAX	605	500	500	409	450	430	164	40	33	46	30	33
MIN.	33	190	192	135	171	173	24	30	25	23	21	23
AC-FT	12020	21150	23970	20130	21710	23410	2420	2010	1770	1650	1540	1510

CAL YEAR 1991 TOTAL* 28,809 MEAN 313 MAX 605 MIN. 33 AC-FT 57,140
WTR YEAR 1992 TOTAL 67,197 MEAN 184 MAX 605 MIN. 21 AC-FT 133,300

* Incomplete Record /*/*/* PROVISIONAL

DAVID J. NEWTON ASSOCIATES, INC.

RIVFLOWS.XLS

TABLE 4-PENDING DESCHUTES RIVER IN-STREAM WATER RIGHTS APPLICATIONS

APPLICANT	APP. #	MINIMUM FLOWS IN C.F.S.											
		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
ODF&W	70695	250	250	250	250	250	250	250	250	250	250	250	250
ODF&W	71194	4500	4500	45-4000	4000	4000	4000	40-3500	3500	35-3800	3800	3800	38-4500
NOTE:		AFFECTED REACH APP. # 70695 N. CANAL DAM IN BEND TO ROUND BUTTE RESERVOIR											
		AFFECTED REACH APP. # 71194 PELTON REREGULATION DAM TO THE MOUTH											

* NOTE: COMPILED FROM DESCHUTES
COUNTY WATER MASTER FILES
BY W&H PACIFIC AUGUST 1993

River, described above, the regional groundwater system intersects the river near Lake Billy Chinook. The groundwater withdrawals requested by Eagle Crest II will have no impact to the Deschutes River above this intersection or groundwater discharge area, which is approximately ten miles downstream from Eagle Crest. Furthermore, the instream flows requested in the application of the Oregon Department of Fish & Wildlife are met in this reach of the river, even during the minimum flow period measured in May of 1992. As a result, we are confident that the proposed appropriation will not cause measurable interference with surface water flows on the Deschutes River.

IV. CONCLUSIONS

Results of a computer simulation of irrigation well pumping effects show that it is unlikely that water level impacts would be discernable beyond a few tens of feet from HR-1. This conclusion is substantiated by actual water level measurements made recently in the adjacent monitoring well PH-1 where depth to water is no different than it was in the spring of 1992 after a full season of pumping.

The groundwater and surface water systems of the Deschutes River basin, intersect near Lake Billy Chinook. Therefore, any groundwater withdrawals could have no impact to the surface water stream above this intersection or groundwater discharge area. This groundwater discharge area is approximately 10 miles down stream from Eagle Crest.

The OWRD established a 30-day pumping cycle as the basis for measurement of potential interference, in the Division 9 Rules. Clearly, no impacts occur to surface water from the pumping of well HR-1. The original conclusions of the OWRD Groundwater Section are correct, and no potential for interference does exist.

REFERENCES

David J. Newton Associates, April 1992, Hydrogeologic Study Eagle Crest Phase II, prepared for Eagle Crest Partners Limited, Redmond, Oregon (DNA Proj. No. 215-192)

Gonthier, Joseph B., 1992, "Technical Review of Eagle Crest Phase II Hydrogeologic Study", prepared for Deschutes County Planning Division, October 5, 1992

Walton, William C., 1987, Groundwater Pumping Tests, Lewis Publishers, Inc., 201 pgs., (and IBM compatible microcomputer programs contained on floppy disc)

APPENDIX A
COMPUTER PROGRAM PRINTOUTS

TA BASE:

AQUIFER HORIZ. HYDR. COND. (GPD/SQ FT)= 20000.00
 ARTESIAN AQUIFER STORATIVITY (DIM)= 1.0000D-03
 PER TABLE STORATIVITY (DIM)= 0.2000
 PRODUCT. WELL EFFECTIVE RADIUS (FT)= 1.000
 TOP OF AQUIFER DEPTH (FT)= 540.00
 BASE OF AQUIFER DEPTH (FT)= 800.00
 INITIAL WATER LEVEL DEPTH (FT)= 519.00
 INFINITE AQUIFER SYSTEM

COMPUTATION RESULTS:

PRODUCTION WELL DISCHARGE RATE (GPM)= 1050.00

TIME-DRAWDOWN OR WATER LEVEL VALUES (FT)

SELECTED DISTANCES (FT)

TIME (MIN)	1.00	158.49	398.11	1000.00	2511.89	6309.57
0.13	519.27	519.04	519.01	519.00	519.00	519.00
0.21	519.28	519.05	519.01	519.00	519.00	519.00
0.33	519.29	519.06	519.02	519.00	519.00	519.00
0.52	519.30	519.07	519.03	519.00	519.00	519.00
0.82	519.31	519.08	519.04	519.01	519.00	519.00
1.30	519.33	519.09	519.05	519.02	519.00	519.00
2.06	519.34	519.10	519.06	519.02	519.00	519.00
3.27	519.35	519.11	519.07	519.03	519.00	519.00
5.18	519.36	519.12	519.08	519.04	519.01	519.00
8.21	519.37	519.13	519.09	519.05	519.02	519.00
13.01	519.38	519.14	519.10	519.06	519.02	519.00
20.62	519.39	519.15	519.11	519.07	519.03	519.00
32.67	519.40	519.17	519.12	519.08	519.04	519.01
51.78	519.41	519.18	519.13	519.09	519.05	519.02
82.07	519.42	519.19	519.14	519.10	519.06	519.02
130.08	519.43	519.20	519.15	519.11	519.07	519.03
206.16	519.44	519.21	519.17	519.12	519.08	519.04
326.74	519.45	519.22	519.18	519.13	519.09	519.05
480.00	519.46	519.23	519.19	519.14	519.10	519.06

TIME AFTER PUMPING STARTED (MIN)= 480.00 (8 hrs.)

DISTANCE-DRAWDOWN OR WATER LEVEL VALUES AT END OF PUMPING PERIOD

WELL RADIUS (FT)	DRAWDOWN OR WATER LEVEL (FT)
1.00	519.46
1.58	519.44
2.51	519.42
3.98	519.40
6.31	519.38
10.00	519.36
15.85	519.33
25.12	519.31
39.81	519.29
63.10	519.27
100.00	519.25
158.49	519.23

14	251.19	519.21
15	398.11	519.19
	630.96	519.16
	1000.00	519.14
18	1584.89	519.12
19	2511.89	519.10
	3981.07	519.08
21	6309.57	519.06
22	10000.00	519.04
	15848.93	519.02
24	25118.87	519.01
25	39810.72	519.00

DATA BASE:

AQUIFER HORIZ. HYDR. COND. (GPD/SQ FT)= 30000.00
 ARTESIAN AQUIFER STORATIVITY (DIM)= 1.0000D-03
 PER TABLE STORATIVITY (DIM)= 0.2000
 PRODUCT. WELL EFFECTIVE RADIUS (FT)= 1.000
 TOP OF AQUIFER DEPTH (FT)= 540.00
 BASE OF AQUIFER DEPTH (FT)= 800.00
 INITIAL WATER LEVEL DEPTH (FT)= 519.00
 INFINITE AQUIFER SYSTEM

COMPUTATION RESULTS:

PRODUCTION WELL DISCHARGE RATE (GPM)= 1050.00

TIME-DRAWDOWN OR WATER LEVEL VALUES (FT)

SELECTED DISTANCES (FT)

TIME (MIN)	1.00	158.49	398.11	1000.00	2511.89	6309.57
0.14	519.19	519.03	519.01	519.00	519.00	519.00
0.22	519.19	519.04	519.01	519.00	519.00	519.00
0.35	519.20	519.05	519.02	519.00	519.00	519.00
0.55	519.21	519.05	519.03	519.01	519.00	519.00
0.87	519.22	519.06	519.03	519.01	519.00	519.00
1.37	519.22	519.07	519.04	519.02	519.00	519.00
2.18	519.23	519.07	519.05	519.02	519.00	519.00
3.45	519.24	519.08	519.05	519.03	519.01	519.00
5.47	519.25	519.09	519.06	519.03	519.01	519.00
8.67	519.25	519.10	519.07	519.04	519.02	519.00
13.74	519.26	519.10	519.07	519.05	519.02	519.00
21.78	519.27	519.11	519.08	519.05	519.03	519.01
34.52	519.27	519.12	519.09	519.06	519.03	519.01
54.72	519.28	519.12	519.10	519.07	519.04	519.02
86.72	519.29	519.13	519.10	519.07	519.05	519.02
137.44	519.30	519.14	519.11	519.08	519.05	519.03
217.83	519.30	519.15	519.12	519.09	519.06	519.03
345.23	519.31	519.15	519.12	519.10	519.07	519.04
480.00	519.31	519.16	519.13	519.10	519.07	519.05

TIME AFTER PUMPING STARTED (MIN)= 480.00 (8 hrs.)

DISTANCE-DRAWDOWN OR WATER LEVEL VALUES AT END OF PUMPING PERIOD

WELL RADIUS (FT)	DRAWDOWN OR WATER LEVEL (FT)
1.00	519.31
1.58	519.30
2.51	519.29
3.98	519.27
6.31	519.26
10.00	519.24
15.85	519.23
25.12	519.22
39.81	519.20
63.10	519.19
100.00	519.17
158.49	519.16

14	251.19	519.14
15	398.11	519.13
	630.96	519.12
	1000.00	519.10
18	1584.89	519.09
	2511.89	519.07
	3981.07	519.06
21	6309.57	519.05
22	10000.00	519.03
	15848.93	519.02
	25118.87	519.01
25	39810.72	519.00

DATA BASE:

AQUIFER HORIZ. HYDR. COND. (GPD/SQ FT)= 60000.00
 ARTESIAN AQUIFER STORATIVITY (DIM)= 1.0000D-03
 PER TABLE STORATIVITY (DIM)= 0.2000
 DUCT. WELL EFFECTIVE RADIUS (FT)= 1.000
 TOP OF AQUIFER DEPTH (FT)= 540.00
 BASE OF AQUIFER DEPTH (FT)= 800.00
INITIAL WATER LEVEL DEPTH (FT)= 519.00
 INFINITE AQUIFER SYSTEM

COMPUTATION RESULTS:

PRODUCTION WELL DISCHARGE RATE (GPM)= 1050.00

WELL-DRAWDOWN OR WATER LEVEL VALUES (FT)

SELECTED DISTANCES (FT)

TIME(MIN)	1.00	158.49	398.11	1000.00	2511.89	6309.57
0.11	519.10	519.02	519.01	519.00	519.00	519.00
0.17	519.10	519.02	519.01	519.00	519.00	519.00
0.27	519.10	519.03	519.01	519.00	519.00	519.00
0.43	519.11	519.03	519.02	519.01	519.00	519.00
0.69	519.11	519.03	519.02	519.01	519.00	519.00
1.09	519.12	519.04	519.02	519.01	519.00	519.00
1.73	519.12	519.04	519.03	519.01	519.00	519.00
2.74	519.12	519.04	519.03	519.02	519.01	519.00
4.34	519.13	519.05	519.03	519.02	519.01	519.00
6.87	519.13	519.05	519.04	519.02	519.01	519.00
10.89	519.13	519.06	519.04	519.03	519.01	519.00
17.26	519.14	519.06	519.04	519.03	519.02	519.01
27.36	519.14	519.06	519.05	519.03	519.02	519.01
43.36	519.14	519.07	519.05	519.04	519.02	519.01
68.72	519.15	519.07	519.06	519.04	519.03	519.01
108.91	519.15	519.07	519.06	519.04	519.03	519.02
172.62	519.15	519.08	519.06	519.05	519.03	519.02
273.58	519.16	519.08	519.07	519.05	519.04	519.02
433.59	519.16	519.08	519.07	519.06	519.04	519.03
480.00	519.16	519.08	519.07	519.06	519.04	519.03

TIME AFTER PUMPING STARTED(MIN)= 480.00 (8 hrs.)

DISTANCE-DRAWDOWN OR WATER LEVEL VALUES AT END OF PUMPING PERIOD

WELL NO	RADIUS(FT)	DRAWDOWN OR WATER LEVEL (FT)
	1.00	519.16
	1.58	519.16
4	2.51	519.15
	3.98	519.14
	6.31	519.13
7	10.00	519.13
	15.85	519.12
	25.12	519.11
	<u>39.81</u>	<u>519.11</u>
11	63.10	519.10
2	100.00	519.09

13	158.49	519.08
14	251.19	519.08
	398.11	519.07
	630.96	519.06
17	1000.00	519.06
	1584.89	519.05
	2511.89	519.04
20	3981.07	519.03
21	6309.57	519.03
	10000.00	519.02
23	15848.93	519.01
24	25118.87	519.01
	39810.72	519.00

DATA BASE:

AQUIFER HORIZ. HYDR. COND. (GPD/SQ FT)= 20000.00
 ARTESIAN AQUIFER STORATIVITY (DIM)= 1.0000D-03
 WATER TABLE STORATIVITY (DIM)= 0.2000
 PRODUCT. WELL EFFECTIVE RADIUS (FT)= 1.000
 TOP OF AQUIFER DEPTH (FT)= 540.00
 BASE OF AQUIFER DEPTH (FT)= 800.00
 INITIAL WATER LEVEL DEPTH (FT)= 519.00
 INFINITE AQUIFER SYSTEM

COMPUTATION RESULTS:

PRODUCTION WELL DISCHARGE RATE (GPM)= 1050.00

TIME-DRAWDOWN OR WATER LEVEL VALUES (FT)

SELECTED DISTANCES (FT)

TIME (MIN)	1.00	158.49	398.11	1000.00	2511.89	6309.57
0.13	519.27	519.04	519.01	519.00	519.00	519.00
0.21	519.28	519.05	519.01	519.00	519.00	519.00
0.33	519.29	519.06	519.02	519.00	519.00	519.00
0.52	519.30	519.07	519.03	519.00	519.00	519.00
0.82	519.31	519.08	519.04	519.01	519.00	519.00
1.30	519.33	519.09	519.05	519.02	519.00	519.00
2.06	519.34	519.10	519.06	519.02	519.00	519.00
3.27	519.35	519.11	519.07	519.03	519.00	519.00
5.18	519.36	519.12	519.08	519.04	519.01	519.00
8.21	519.37	519.13	519.09	519.05	519.02	519.00
13.01	519.38	519.14	519.10	519.06	519.02	519.00
20.62	519.39	519.15	519.11	519.07	519.03	519.00
32.67	519.40	519.17	519.12	519.08	519.04	519.01
51.78	519.41	519.18	519.13	519.09	519.05	519.02
82.07	519.42	519.19	519.14	519.10	519.06	519.02
130.08	519.43	519.20	519.15	519.11	519.07	519.03
206.16	519.44	519.21	519.17	519.12	519.08	519.04
326.74	519.45	519.22	519.18	519.13	519.09	519.05
517.85	519.46	519.23	519.19	519.14	519.10	519.06
820.73	519.47	519.24	519.20	519.15	519.11	519.07
1300.77	519.49	519.25	519.21	519.17	519.12	519.08
2061.58	519.50	519.26	519.22	519.18	519.13	519.09
3267.39	519.51	519.27	519.23	519.19	519.14	519.10
5178.46	519.52	519.28	519.24	519.20	519.16	519.11
8207.31	519.53	519.30	519.26	519.22	519.17	519.13
13007.71	519.56	519.32	519.28	519.24	519.19	519.15
20615.83	519.59	519.36	519.31	519.27	519.23	519.19
32673.89	519.65	519.41	519.37	519.33	519.28	519.24
51782.00	519.69	519.46	519.42	519.37	519.33	519.29

TIME AFTER PUMPING STARTED(MIN)=43200.00 (30 Days)

DISTANCE-DRAWDOWN OR WATER LEVEL VALUES AT END OF PUMPING PERIOD

DE	RADIUS(FT)	DRAWDOWN OR WATER LEVEL (FT)
NO		
2	1.00	519.69
3	1.58	519.67

	2.51	519.65
5	3.98	519.63
	6.31	519.61
	10.00	519.59
8	15.85	519.57
9	25.12	519.54
9	39.81	519.52
1	63.10	519.50
2	100.00	519.48
3	158.49	519.46
4	251.19	519.44
15	398.11	519.42
6	630.96	519.39
7	1000.00	519.37
18	1584.89	519.35
9	2511.89	519.33
4	3981.07	519.31
	6309.57	519.29
2	10000.00	519.27
	15848.93	519.25
	25118.87	519.23
25	39810.72	519.21
6	63095.74	519.19
7	%100000.00	519.18

DATA BASE:

AQUIFER HORIZ. HYDR. COND. (GPD/SQ FT)= 30000.00
 ARTESIAN AQUIFER STORATIVITY (DIM)= 1.0000D-03
 WATER TABLE STORATIVITY (DIM)= 0.2000
 PRODUCT. WELL EFFECTIVE RADIUS (FT)= 1.000
 TOP OF AQUIFER DEPTH (FT)= 540.00
 BASE OF AQUIFER DEPTH (FT)= 800.00
 INITIAL WATER LEVEL DEPTH (FT)= 519.00
 INFINITE AQUIFER SYSTEM

COMPUTATION RESULTS:

PRODUCTION WELL DISCHARGE RATE (GPM)= 1050.00

TIME-DRAWDOWN OR WATER LEVEL VALUES (FT)

SELECTED DISTANCES (FT)

TIME(MIN)	1.00	158.49	398.11	1000.00	2511.89	6309.57
0.14	519.19	519.03	519.01	519.00	519.00	519.00
0.22	519.19	519.04	519.01	519.00	519.00	519.00
0.35	519.20	519.05	519.02	519.00	519.00	519.00
0.55	519.21	519.05	519.03	519.01	519.00	519.00
0.87	519.22	519.06	519.03	519.01	519.00	519.00
1.37	519.22	519.07	519.04	519.02	519.00	519.00
2.18	519.23	519.07	519.05	519.02	519.00	519.00
3.45	519.24	519.08	519.05	519.03	519.01	519.00
5.47	519.25	519.09	519.06	519.03	519.01	519.00
8.67	519.25	519.10	519.07	519.04	519.02	519.00
13.74	519.26	519.10	519.07	519.05	519.02	519.00
21.78	519.27	519.11	519.08	519.05	519.03	519.01
34.52	519.27	519.12	519.09	519.06	519.03	519.01
54.72	519.28	519.12	519.10	519.07	519.04	519.02
86.72	519.29	519.13	519.10	519.07	519.05	519.02
137.44	519.30	519.14	519.11	519.08	519.05	519.03
217.83	519.30	519.15	519.12	519.09	519.06	519.03
345.23	519.31	519.15	519.12	519.10	519.07	519.04
547.15	519.32	519.16	519.13	519.10	519.07	519.05
867.18	519.32	519.17	519.14	519.11	519.08	519.05
1374.39	519.33	519.17	519.15	519.12	519.09	519.06
2178.26	519.34	519.18	519.15	519.12	519.10	519.07
3452.31	519.35	519.19	519.16	519.13	519.10	519.08
5471.54	519.36	519.20	519.17	519.14	519.11	519.09
8671.81	519.37	519.22	519.19	519.16	519.13	519.10
13743.89	519.39	519.24	519.21	519.18	519.15	519.12
21782.59	519.43	519.27	519.25	519.22	519.19	519.16
4523.09	519.49	519.33	519.30	519.27	519.25	519.22
3200.00	519.53	519.37	519.34	519.31	519.29	519.26

TIME AFTER PUMPING STARTED(MIN)=43200.00 (30-Days)

DISTANCE-DRAWDOWN OR WATER LEVEL VALUES AT END OF PUMPING PERIOD

NO	RADIUS(FT)	DRAWDOWN OR WATER LEVEL (FT)
2	1.00	519.53
3	1.58	519.51

4	2.51	519.50
5	3.98	519.48
6	6.31	519.47
7	10.00	519.46
8	15.85	519.44
9	25.12	519.43
0	39.81	519.41
11	63.10	519.40
12	100.00	519.39
13	158.49	519.37
14	251.19	519.36
15	398.11	519.34
16	630.96	519.33
17	1000.00	519.31
18	1584.89	519.30
19	2511.89	519.29
20	3981.07	519.27
21	6309.57	519.26
22	10000.00	519.24
23	15848.93	519.23
24	25118.87	519.22
25	39810.72	519.20
26	63095.74	519.19
27	%100000.00	519.19

DATA BASE:

AQUIFER HORIZ. HYDR. COND. (GPD/SQ FT)= 60000.00
 ARTESIAN AQUIFER STORATIVITY (DIM)= 1.0000D-03
 WATER TABLE STORATIVITY (DIM)= 0.2000
 PRODUCT. WELL EFFECTIVE RADIUS (FT)= 1.000
 TOP OF AQUIFER DEPTH (FT)= 540.00
 BASE OF AQUIFER DEPTH (FT)= 800.00
 INITIAL WATER LEVEL DEPTH (FT)= 519.00
 INFINITE AQUIFER SYSTEM

COMPUTATION RESULTS:

PRODUCTION WELL DISCHARGE RATE (GPM)= 1050.00

TIME-DRAWDOWN OR WATER LEVEL VALUES (FT)

SELECTED DISTANCES (FT)

TIME (MIN)	1.00	158.49	398.11	1000.00	2511.89	6309.57
0.11	519.10	519.02	519.01	519.00	519.00	519.00
0.17	519.10	519.02	519.01	519.00	519.00	519.00
0.27	519.10	519.03	519.01	519.00	519.00	519.00
0.43	519.11	519.03	519.02	519.01	519.00	519.00
0.69	519.11	519.03	519.02	519.01	519.00	519.00
1.09	519.12	519.04	519.02	519.01	519.00	519.00
1.73	519.12	519.04	519.03	519.01	519.00	519.00
2.74	519.12	519.04	519.03	519.02	519.01	519.00
4.34	519.13	519.05	519.03	519.02	519.01	519.00
6.87	519.13	519.05	519.04	519.02	519.01	519.00
10.89	519.13	519.06	519.04	519.03	519.01	519.00
17.26	519.14	519.06	519.04	519.03	519.02	519.01
27.36	519.14	519.06	519.05	519.03	519.02	519.01
43.36	519.14	519.07	519.05	519.04	519.02	519.01
68.72	519.15	519.07	519.06	519.04	519.03	519.01
108.91	519.15	519.07	519.06	519.04	519.03	519.02
172.62	519.15	519.08	519.06	519.05	519.03	519.02
273.58	519.16	519.08	519.07	519.05	519.04	519.02
433.59	519.16	519.08	519.07	519.06	519.04	519.03
687.19	519.17	519.09	519.07	519.06	519.04	519.03
1089.13	519.17	519.09	519.08	519.06	519.05	519.03
1726.15	519.17	519.09	519.08	519.07	519.05	519.04
2735.77	519.18	519.10	519.09	519.07	519.06	519.04
4335.90	519.19	519.11	519.09	519.08	519.06	519.05
6871.94	519.20	519.12	519.10	519.09	519.08	519.06
10891.30	519.22	519.14	519.12	519.11	519.09	519.08
17261.54	519.24	519.17	519.15	519.14	519.12	519.11
27357.70	519.29	519.21	519.20	519.18	519.17	519.15
43200.00	519.36	519.28	519.27	519.25	519.24	519.23

TIME AFTER PUMPING STARTED (MIN)=43200.00 (30-Days)

DISTANCE-DRAWDOWN OR WATER LEVEL VALUES AT END OF PUMPING PERIOD

DE NO	RADIUS (FT)	DRAWDOWN OR WATER LEVEL (FT)
2	1.00	519.36
3	1.58	519.35

4	2.51	519.35
5	3.98	519.34
6	6.31	519.33
7	10.00	519.33
8	15.85	519.32
9	25.12	519.31
0	39.81	519.30
11	63.10	519.30
12	100.00	519.29
13	158.49	519.28
14	251.19	519.28
15	398.11	519.27
16	630.96	519.26
17	1000.00	519.25
18	1584.89	519.25
19	2511.89	519.24
20	3981.07	519.23
21	6309.57	519.23
22	10000.00	519.22
23	15848.93	519.21
24	25118.87	519.21
25	39810.72	519.20
26	63095.74	519.19
27	%100000.00	519.19

APPENDIX B
LETTER FROM W & H PACIFIC



155 N.E. Revere
Bend, Oregon 97701

September 9, 1993

Mr. Scott Huele, CEG
David J. Newton & Associates
1202 S.W. 12th Avenue, Suite 400
Portland, Oregon 97205

Re: Eagle Crest II
Groundwater Appropriation Application
OWRD File No. G-12905
Pump Testing
526-0101

Dear Dave:

As requested, I have obtained additional water level measurements for the Eagle Crest II monitoring well.

The monitoring well, is located approximately 30 feet west of the pilot well and both are located in the southwest quarter of the southeast quarter of Section 15, Township 15 S, Range 12 E. The irrigation production well. The irrigation production well provides all golf course irrigation needs for the new 18-hole Eagle Ridge Golf Course. The large production well pump has been operated daily for the entire irrigation season.

A submersible pump, column, and electrical conductor have been installed in the monitoring well, however the pump has not been operated. Initial water level measurements in the monitoring well were completed with an electronic probe. The installation of a submersible pump however prevents use of an electronic probe. In gathering today's water level measurements we utilized the air tube, installed concurrent with the submersible pump and column. The air tube was installed to a depth of 567 feet, based upon a construction record from Jack Abbas at A&H Pump Co.

I visited the site today and measured the water level in the pilot well, while the production well was running. The pilot well has not been operated since testing. I utilized an Ametek, U.S. Gauge Division, water level gauge, with direct reading in feet. The gauge has a 4-1/2 inch diameter dial. With the length of the air tube set at 567 feet, I read 519 feet for the total depth of water, below the top of the casing.

I recognized that some error can be introduced in setting the length of air tube, in establishing the length of air tube, and in reading the pressure gauge. I therefore utilized a second gauge, of the same manufacturer, scale, and diameter to obtain a second reading. A bicycle pump was utilized for both air readings and the second gauge also read 519 feet.

This reading, on the pilot or monitoring well was under static conditions, while the production pump was running. This reading of 519 feet compares to an original electronic probe measurement of 518.65 feet. The 518.65 feet was obtained by Nancy Speaker, of your staff, on March 18, 1992.





Mr. David J. Newton
September 9, 1993
Page 2

I trust this information will be useful. Please never hesitate to contact me if you have questions or needs for additional information.

Very truly yours,
W&H PACIFIC, INC.

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

Thomas A. Walker, P.E.
Senior Associate

cc: Bill Lyche

TECHNICAL REVIEW CHECKLIST

Application: 6-12905

Review Date: 2-17-93

- OK indicates information was completed or adequately addressed.
 N indicates information is needed, or incomplete, or inadequately addressed
 N/A indicates Not Applicable

SUMMARY

N Completeness
 _____ Land Use
OK GW Interference (if potential interference with surface water, see results of water availability analysis)
 _____ Conflicts
OK Water Availability
 S or U Satisfactory or Unsatisfactory Conclusions based on information available on the review date above.

N/A

The applicant has certified that the information provided in the application is an accurate representation of the proposed use and is true and correct to the best of their knowledge.

OK

No oath is required because application was filed before June 5, 1992.

OK

Application fees:

Examination fee: \$ 200
 Recording fee: \$ 245
 TOTAL REQUIRED \$ 445
 TOTAL SUBMITTED \$ 1.00
 AMOUNT DUE prior to issuance of permit \$ 5 PERM

1 CFS 125
 2 CFS 120

- OK Proposed dates of beginning and completion of construction, and complete application of water.
- OK A satisfactory map of the proposed place of water use prepared by a certified water right examiner, unless exempt under OAR 690-14-150(3).
- N/A A CWRE map is not required for applications filed before November 9, 1987.
- N/A A written copy of the legal description of the property on which the water is to be used.
- OK A copy of written authorization, contract or easement permitting access to the land or reservoir not owned by the applicant.
- N/A No statement of ownership was required for applications filed before August, 1990.
- N/A The report from watermaster has been received.
- OK The proposed use is not restricted or prohibited by statute.
- OK The source of water is not withdrawn from appropriation by order of the State Engineer or Water Resources Commission, or legislatively withdrawn under ORS Chapter 538.
- OK DOMESTIC use(s) is/are^a classified use(s) under the DESCHUTES Basin Program, OAR 690 - 505-002.1(a)
- OK The application, map and supporting data are complete and free of defects.

Land Use Compatibility:

As expressed by the Planning Department of DESCHUTES COUNTY

- PENDING _____ The land uses to be served by proposed water uses (including proposed construction) are allowed or are not regulated by the local comprehensive plan (ordinance section _____).
- _____ The land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals which have been obtained.
- _____ The local government was notified, and sent no comment pursuant to the rules at the time; land use was presumed in compliance per such statement printed on the application.

For ground water applications:

OK A copy of the constructor's log, if available, for any well already constructed, or required information regarding actual or anticipated construction.

OK The report from groundwater section has been received.

46 ALSO ENFORCEMENT SECTION

For reservoir applications:

N/A Plans, specifications and supporting information for the dam and impoundment area.

June 30, 1993

To: Martha Pagel, Director
Oregon Water Resources Department
3850 Portland Road
Salem, Oregon 97310

CC: Chairman, Water Resources Commission

From: Sandra Sands
Friends of Cline Butte
3450 SW 81st Street
Redmond, Oregon 97756

RE: EAGLE RIDGE DEVELOPMENT CORP. - G-12905

As the rural residential community composed of approximately sixty families bordering Eagle Crest, we are understandably concerned about the effects the Eagle Crest proposed water request will have on the groundwater source, as well as on surface water quantity and quality.

We support testimony directed to the Water Resources Department by both Water Watch and the Alliance for Responsible Land Use in Deschutes County (ARLU-DeCo), pertaining to the above referenced water request.

Our concerns grow as Eagle Crest proposes ever-increasing expansion. It appears their original proposal required two additional golf courses on Cline Butte. Their proposal then added a request for 500 irrigated homesites on Cline Butte. Now, Eagle Crest is requesting irrigation rights for 900 homesites. Eagle Crest also proposes a 250-unit hotel and convention center, another restaurant, condos and timeshare units on Cline Butte.

As evidenced by copies attached, we have voiced our concerns over the past few years and have requested monitoring and answers to our concerns ----- to the Water Resources Department, to the Dept. of Environmental Quality and to Deschutes County.

Deschutes County received, and rightly so, drought status. We request protection of our ground water and surface waters in accordance with Goal 5 mandates.

We request an inventory of our ground water resource prior to authorization by the Water Resources Dept. of this application (G-12905).

G-12905
Friends of Cline Butte
6/30/93
Page 2

We request the Water Resources Dept. to review the petition we submitted on 3/14/91 - part of the Dept.'s Eagle Crest file. We request careful consideration of our concerns.

We believe the technical report to be incomplete and inconclusive, as substantiated by Water Watch and ARLU-DeCo.

We believe the proposed use is not in the Public Interest, and therefore, the permit must be denied. The applicant has NOT provided evidence and proof that the proposed use will not impair or be detrimental to the public interest.

Thank you for your careful consideration.



Sandra Sands
Friends of Cline Butte

Attachments: Petition, dated 3/14/91 directed to Desch. Co. Water Master and D.E.Q.

Letter to Comm. Tom Throop, dated 3/14/91

Canyon River Territory memo, dated 4/17/91

Testimony presented to Desch. Co. Planning Commission, dated 10/3/91

Testimony presented to LCDC on 12/13/91

Bulletin newspaper proposed article 1/8/92

Testimony presented to Desch. Co. Board of Commissioners on 1/8/92

Testimony presented to the Senate Comm. on Agriculture and Natural Resources -

Testimony presented re: HB-2932 - Des. Resorts on 5/3/93

3/14/91

To: Watermaster, Deschutes County - Robert Main
Bend Dept. of Environmental Quality - John Hector
Portland Dept. of Environmental Quality - Bill Hutchinson
- Fred Hanson
Board of County Commissioners: Chairman Dick Maudlin
Commissioner Tom Troop
Commissioner Nancy Pope Schlangen

In accordance with a telephone conversation on March 13, 1991, with John Hector, of the Bend D.E.Q., we the undersigned residents of Canyon River Territory, Redmond, Oregon, respectfully request the Department of Environmental Quality take the following action to ensure a safe environment:

1. Determine without a doubt, and guarantee in writing, that the existing sewage disposal system (septic tanks and leach fields) are in no way contaminating ground water, and are in no way seeping into the Deschutes River as a result of sewage disposal by Eagle Crest, its hotel, clubs, and development homes.
2. Determine without a doubt, and guarantee in writing, that chemicals, pesticides and fertilizers used by Eagle Crest on their existing golf course are not harmful to the environment, to the fish, fowl and wildlife, to the well-being of nearby residents.
 - (a) to guarantee that these chemicals are not contaminating ground water
 - (b) to guarantee that these chemicals are not washing into and polluting the Deschutes River

We respectfully request continuous monitoring by the D.E.Q. of ground water and river water on and in proximity to Eagle Crest to guarantee safe environmental quality and uncontaminated fresh water supply to the residents of Redmond.

3. In regard to the proposed new 36-hole golf course, and any additional construction of homes, hotels, restaurants, etc. by Eagle Crest, we request a professional determination and a guarantee in writing, that there will not be a negative impact to the environment, to the air quality, ground water, river water, to the fish, fowl, wildlife and well-being of local residents as a result of Eagle Crest additional development.
4. At this time, we the residents of Canyon River Territory, request the D.E.Q. and the Watermaster for Deschutes County to address our concerns regarding excessive water usage by Eagle Crest to maintain not only their existing golf course, but to also maintain an additional 36-hole golf course, because:
 - (a) a well-maintained 18-hole golf course requires 1.5 MILLION GALLONS of fresh water, PER DAY, EVERY DAY
 - (b) an additional 36-hole golf course means that Eagle Crest will require 4.5 MILLION GALLONS OF FRESH WATER, PER DAY, EVERY DAY, to maintain their golf courses.

Not only will over four-million gallons of fresh water be required by Eagle Crest for golf course maintainance, but excessive water usage is required for the proposed hundreds of Eagle Crest estate homes, Eagle Crest hotels and restaurants.

Has the Department of Environmental Quality determined what impact this water usage by Eagle Crest will have on the water supply today, tomorrow, years to come in Deschutes County?

Each year, here in the dessert, we are threatened by forrest and brush fires during the dry season. Will we have enough water and water pressure to combat fires?

Will we have enough water to irrigate our crops. To water our livestock? To keep our properties green and protect ourselves from the outbreak of fires?

We in Central Oregon are experiencing a drought this year? What impact will a water supply depleted by frivolous and unnecessary water usage to green golf courses (in excess of four-million gallons of fresh water per day) have on Deschutes County residents, during a drought year----in years to come?

Can the Department of Environmental Quality guarantee that the supply of fresh water to the community will not be curtailed, nor will the quantity and quality of fresh water be negatively impacted by Eagle crest's water requirements?

What, if any, environmental impact studies have been conducted to determine without a doubt, and to guarantee to each of us residing in Deschutes County, near Eagle Crest, that our quality of life will not be threatened, nor will ground waters be contaminated, nor will river water be polluted, nor will fish, fowl and wildlife be negatively impacted.

Can you guarantee to us that pesticides and fertilizers used in maintaining Eagle Crest golf courses are not seeping into the ground water, are not running off into the Deschutes River, and not in any way harmful to local vegetation, to fish, fowl, wildlife, livestock, or---humans?

The "powers that be" have sold off what we believed to be protected, public BLM land so Eagle Crest can put in another golf course. Eagle Crest's realtor is soliciting our Canyon River Territory properties for further Eagle Crest development. Eagle Crest would like to acquire all our river front property, and access to southern BLM lands.

We are a community of approximately forty homeowners, attempting to protect our homes and environment. We are requesting the Department of Environmental Quality to address our concerns and compile necessary determinations to guarantee this area will remain toxic free, with unpolluted grounds and running water free of contamination now and in years to come.

cc: Governor Barbara Roberts

Representative Beverly Clarno

Rebecca Leone - Friends of Central Oregon

The Bulletin

Eagle Crest Administration

Bureau of Land Management

Deschutes County Community Development Department

*Canyon River Territory residents
requesting D.E.Q. action:*
J. J. Hooder 3240 81st Street
Junie Milone 548-7438
Art Milone " "
Doris Baker 548-8857
Sandra Caves 67693 SW 83rd.
Mavis Bridges 21120 Clinic Fall Rd.
Arthur Brier 67850 SW 81st
Dawn Collins 65670 SW 83
Linda Bessler 67716 SW 79th St.
Ernest Z. Berler 67765 SW 79th
Mr. & Mrs. H. Johnson
Phil H. Johnson 7778 SW Salmon
Rebecca Johnson 67785 SW 75th
Paul E. Johnson " "
Kathy Nicky 67800 Clinic Fall Rd.

Paul Eby 67520 SW 83rd

San Bernhard 3450 SW 81st

Paul G. Sord 3450 SW 81st

Cryptal m Poppe # 67683 SW 79th

Jimmie A Poppe 67685 SW 79th

John L. Glaspey
21350 N.W. Eagle Dr.
Redmond, OR

Karin L. Kumar, concerned
Bend Or. 97701 party

Jimbo Lamp 3450 SW 81st

James M. Linn 2242 Osprey
Redmond 97756

Joanne Klandt 67670 SW 75th

cc: Governor Barbara Roberts

Representative Beverly Clarno

Rebecca Leone - Friends of Central Oregon

The Bulletin

Eagle Crest Administration

Bureau of Land Management

Deschutes County Community Development Department

Stewart McCray
Pat McCray
Dale Demaris
Paul Demaris
J. R. Munn
Jacquie Lee
Elizabeth Lee
Melody Johnson
C. J. Thomas
John R. Vollmer
Patricia M. Vollmer

Ally

DATE: 4/17, 1991

TO: CANYON RIVER TERRITORY RESIDENTS
OASIS DRIVE-CLINE FALLS RESIDENTS
CONCERNED CITIZENS

RE: EAGLE CREST ANNEXATION - ACQUISITION OF BLM LAND - DEVELOPMENT
(RE-ZONING OF EAGLE RIDGE - WATER USAGE)

The Canyon River Territory residents got together out of concern because Eagle Crest wants to annex enough properties to solicit a two-thirds majority and delete the Canyon's Building and Use Restrictions - in order to increase the Eagle Crest Destination Resort by sub-dividing annexed Canyon River Territory properties.

BLM traded property along the John Day River with William Smith Properties, Inc. for 640 acres of Cline Falls Butte. Smith turned the Cline Falls Butte property over to Eagle Crest. Public awareness and notice to surrounding land owners was limited. The Butte is now known as Eagle Ridge.

Eagle Crest currently holds a limited use permit for establishment of a 36-hole golf course, in an area of Eagle Ridge, presently zoned for agricultural use.

Eagle Crest has filed water permits for 500 dwellings on Eagle Ridge, with 1/2 acre irrigation water per dwelling.

A zoning hearing to change Eagle Ridge from agricultural use to multiple use in order to establish 500 dwellings on this former BLM land will be held sometime in early May.

Major concern regarding Eagle Crest development of Cline Falls Butte (Eagle Ridge) and the existing Eagle Crest resort are as follows:

1. The legality of the BLM land trade (Cline Falls Butte) with William Smith Properties, Inc., and subsequent acquisition by Eagle Crest.
 2. Excessive water usage by Eagle Crest and what that means to us:
 - combining existing Eagle Crest water permits granting 2,685,072 gallons of water per day, with recent permits for the development of Eagle Ridge granting 5,894,411 gallons of water per day--means that the total usage by Eagle Crest will be 8,579,483 gallons of water - per day - every day!
 - Eagle Crest wells are pumping at a depth of 1500 feet.
 - Surrounding individual wells are pumping water from a depth of approximately 600 feet - from the same water table.
- ****- When Eagle Crest uses water at the rate of nearly nine million gallons of water, per day, every day from 1500 foot wells, who is liable when the 600 foot water table drops and all our wells go dry???
3. Eagle Crest does not have a sewage treatment plant. Sewage is disposed of by septic tanks. The existing Eagle Crest resort has already added a hotel and numerous houses and townhouses to the original septic system.

- Should Eagle Crest be allowed to build a new 36-hole golf course, club house, and 500 dwellings, etc., on Eagle Ridge, we are seriously concerned about:
 - (a) adequate disposal of sewage
 - (b) sewage contamination of ground water
 - (c) sewage contamination seepage into the Deschutes River
 - (d) Reliable, constant monitoring of ground water and river water by the Department of Environmental Quality, which at present is undependable

4. We are concerned about ground water contamination and river water pollution from toxic pesticides and fertilizers used to maintain Eagle Crest grounds and golf courses.

NOTE: The new Eagle Ridge 36-hole golf course will be developed in an established deer migratory route and winter feeding grounds. How will Eagle Crest handle the problem of deer grazing on their golf courses or irrigated lawns? How will Eagle Crest keep jack rabbits and other wildlife from feeding in their established feeding grounds? When did all the magnificent golden eagles disappear?

5. We are concerned about the effect Eagle Crest additional development will have on our property taxes.
6. We are concerned about noise, and air, and water pollution - the destruction of juniper forrests and wildlife habitats.
7. We are concerned about increased traffic flow.
 - In addition to developing Eagle Ridge - Eagle Crest plans to build a shopping mall off Cline Falls Road.
8. We are greatly concerned about the destruction of our rural quality of life.

*** Textbook definition of BLM: The Bureau of Land Management was set up primarilly because most states had failed to protect commonly shared land, air, and water resources from exploitation and abuse by private interests.

If you would like to join forces with us in opposition to the development of Eagle Ridge, and in requesting an objective Environmental Impact Study (other than by Century West) to address our concerns, please sign this petition and attend the zoning hearing regarding Eagle Ridge. (A definite date has not been established, but is expected to be in early May. Watch for notice of this zoning hearing in the Bulletin and for a Public Notice posting at Eagle Ridge).

For additional information, please contact Sandra Sands at 548-8643

Thank you for your concern and support

To: Deschutes County Planning Commissioners
Board of County Commissioners
George Read, Planning Director

From: Friends of Cline Butte - Sandra Sands

Date: October 3, 1991

Re: File Numbers: PA-91-4 and TA-91-4
Written testimony following public hearing 9/25/91

RECEIVED

JUN 30 1993

WATER RESOURCES DEPT
BUREAU, OREGON

Has Deschutes County violated its land use policy - Goal 3 and ORS 215.263 governing lands for farm use? In 1990, Deschutes County converted more farm land to non-farm uses outside urban areas, allowing more non-farm parcels in farm zones than the rest of the ENTIRE state of Oregon combined. More than fifty percent of all building permits issued in Deschutes County in 1990 were for building outside the urban growth boundary.

Shouldn't there be genuine county concern for protecting resource lands and preventing speculative buying (i.e. - Smith Rock) that drives up the price of land and makes farming impractical? Agriculture, according to 1989 state employment statistics, generates over 24 million dollars in Deschutes County, and is, in fact, one of this county's fastest growing industries - with a 600% farm income increase between 1980 and 1989. Deschutes County has also become the leading exotic animal producer in the state, establishing an additional profitable, income-generating use of agricultural lands.

Is there truly a market demand for more high-end resort homes, when the housing cost index shows Deschutes County's housing costs as being 18% higher than the national norm? To quote Keith Frederickson of the Bulletin: Does Deschutes County really NEED more "upscale condos for upscale strangers"? "Are we going to continue to pave paradise and put in more parking lots"?

There exists in this county at present a 23-year supply of developable land, without changing the Comprehensive Plan. The urbanizing, detrimental effects on rural character and rural quality of life in this county will be irrevocable if EFU-20 and EFU-40, F-2 and F-3, and RR-10 lands become fair game for resort developers. Private resort development clustered along our rivers will restrict public access, which should be guaranteed.

Deschutes County has already experienced serious loss of wildlife habitat due to drought, to fire, to suppression, impact on forest lands, by increasing numbers of road kill because of limiting natural grazing ranges, by excessive growth outside growth boundaries.

Out of a total of fifteen destination resorts presently in the two states of Washington and Oregon, four destination resorts, 27%, are currently in Deschutes County.

Cities now are hardpressed to provide services - ambulance and fire to a far-reaching population, adequate police protection as the crime rate in the county continues to rise, public schools are over-crowded, there is already an overload on sewage treatment and rubbish disposal, traffic is terribly congested and highways are in need of constant repair from heavy use, parking facilities are becoming more limited, expansion of electrical service capabilities is over-burdened, water quantity and quality are in question, and affordable housing is very difficult to locate.

In the best interests of Deschutes County residents, please consider survival and quality of life straining under the existing burden of a rapidly expanding population.

Tax payers carry the burden, We pay tourist prices each time we pull up at the gas pumps (gas prices went from \$1.15 to \$1.29 per gallon over the Labor Day weekend) - we pay tourist prices each time we buy groceries, shop in the local stores, take a car in for repair, eat a meal in a restaurant, require emergency medical care - without benefitting from comparable wage increases in this county.

Additional high-end development, coupled with the need for expanded city and county services will have an insidious effect on already over-burdened taxpayers.

Has a NEED for additional resorts in Deschutes County been established? Perhaps some of the problems within existing resorts should first be rectified. Eagle Crest has quite an abundance of homes for sale, some of which have been on the market for over a year; while additional Eagle Crest homeowners are voicing dissatisfaction. As testified to by Kathy Plain on 9/25/91, the resort is facing serious septic problems - "the sewage smell by the pool is so strong its nauseating."

- perhaps a point in favor of making it mandatory that resorts not utilizing public services be required to provide on-site sewage treatment systems, with beneficial use of waste water rather than tapping into a depleted aquifer.

Eagle Crest has drilled down 800 feet on Cline Butte now - without finding an adequate water supply. Homeowners within the existing resort have, at their own expense, been forced to install pressurizing systems because there is no water pressure.

The Inn of the 7th Mountain is experiencing serious financial difficulties - facing the prospect of possible departmental layoffs and investor uneasiness.

Rumor has it that Black Butte Ranch has laid off all their housekeeping staff and have brought in lower-paid crews from Florida.

SunRiver has its share of problems, as well. It's common knowledge that traffic accidents near both Sun River and Eagle Crest continue to increase. Homeowner dissatisfaction is evidenced at Sun River by petition to incorporate as a city - freed from resort classification. There is talk of water contamination at Sun River (rats in the well) - necessitating residents bring in bottled water.

DO WE NEED MORE RESORTS IN THIS COUNTY?

SPECIFIC TO FILE NUMBERS: PA-91-4 and TA-91-4:

1. Drought is a natural hazzard identified in the Comprehensive Plan and is appropriate to address.

An average Deschutes County household uses approximately 700 gallons of water per day. An an example, Eagle Crest contemplates a 300-unit motel/convention center on Cline Butte. If 300 units of overnight lodging are allowed, then also 600 homesites will be allowed, with irrigation. 350,000 gallons of water per day, per total of 600 households will be used, in addition to motel water usage. This figure does not include the existing resort's water usage. Each 18-hole golf course requires 2.6 million gallons of water per day to keep the greens green in a dessert. Eagle Crest will have three 18-hole golf courses - consuming 7.8 million gallons of water per day just on their golf courses - in the sixth year of a drought. The total water use by the existing four resorts in this county must be astronauical!

2. Impact on traffic has not been adequately addressed. Based on the Resource Element, there are 2.57 persons per home. The average number of trips a household makes daily out and about town has been computed by the American Assoc. of State Highway Transportation Officers to total between nine and ten daily trips.....
- if, for instance, 600 homes are allowed at one destination resort, that means 1,560 people could be populating a rural area (not even including hotel/motel guests or additional existing resort population figures. Increased traffic near a destination resort will be a serious problem.
3. Mapping provided by the applicant, rather than by an impartial source seems to be a direct conflict of interest. Eagle Crest should not have the right to establish county mapping criteria. In the interests of the public, shouldn't the Commission take the responsibility for clearly identifying all land parcels, and distinctly identifying property lines and boundaries, in accordance to Goal 8? The key for the prepared maps is very vague and does not include Deschutes County in its entirety.
4. Shouldn't the Planning Commission decide an area's density, rather than that being a decision made solely by the Planning Director?
5. In reference to BLM lands, Pages 2 and 3 of DCPC Tentative Recommendations, and in reference to irrigated prime farm lands, Page 4 - BLM and irrigated prime farm lands are removed from consideration for destination resorts, but the following paragraphs describe how these lands could be added to eligible areas for development.

In the best interests of the county, please carefully consider and protect - absolutely - designated lands from development. As

the plan now reads, open-ended - the county is encouraging additional Plan changes with each developer's request.

6. Urban growth boundaries and buffer zones should be clearly stated and absolute - not subject to future ammendment.
7. The County's position on gambling and social gaming should be clearly defined as relates specifically to destination resorts - preventing possible future incorporation of resort cassinos - particularly outside urban growth boundaries.
8. In the best interest of Deschutes County - water quantity and quality and availability should clearly be established - before opening more land up to development. One resort alone can bring into a rural area, dependent not upon public services, but rather dependent upon fragile natural resources, a population approximating a small city in itself.
9. Monitoring of ground water contamination from golf course pesticide and fertilizer application, and possible contamination of ground water by excessive sewage in a heavily, condensed populated area such as a resort should be mandatory and consistent.
10. We ask Deschutes County to consider its local residents (voters and tax payers) as this decision is made. Please seek objective information from experts, not retained by either side of this issue, regarding all environmental impacts on areas presently rural in character, rich in scenic resource land within a sensitive arid-riparian environment.

Please consider carefully the irrevocable consequences of allowing this county's rural, pastoral lands to be developed, the quality of life to be negatively altered by excessive numbers of "upscale strangers", and continued depletion of precious natural resources, and suppression of wildlife and its habitat as you arrive at a decision.

Thank you for your careful consideration.

cc: David Force, atty.

Sandra Sands
Friends of Cline Butte

10/4/91

Hand Delivered to:

- Chairman Dick Maudlin*
- Comm. Tom Throop*
- Comm. Nancy Page Schlenger*
- George Read, Planning Dir.*

*at: 1130 NW Harriman
Bend, Or.*

*Hand delivered 10/4/91
and copies mailed to
Planning Comm.*

- Jack Jones*
- Ted Schaefer*
- Ken Johnson*
- Meghan Dobert*
- Eric Dolson*
- Robert Frisbee*
- Ruth Wahl*

RECEIVED

FEB 14 1994

WATER RESOURCES DEPT.
SALEM, OREGON

February 11, 1994

Friends of Cline Butte
Sandra Sands
3450 SW 81st Street
Redmond, Oregon 97756

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

Re: Protest of Application #G-12905
Eagle Ridge Devel. Corp. - Eagle Crest Resort

In June of 1993, Friends of Cline Butte and ARLU-DeCo filed objections to the above referenced application relating to deficiencies in the technical report, as well as public interest issues. The Water Resources Dept. denied all objections on January 13, 1994. As stated previously by both interested land use groups I'm representing herewith, the pressure to develop the water resources in this area (both ground water and surface water) for economic gain by Eagle Crest resort, must be balanced with the state's duty to protect Oregon's precious water resources.

We are not opposed to economic growth, as long as that growth is accomplished within the capacity of the water resource, and in a way that PROTECTS PUBLIC USES OF WATER. These public uses of water must be protected not only because we have a duty to act responsibly toward other creatures on this earth, but also because these resources provide economic benefits for all of Oregon. For the reasons outlined below, and for other reasons listed, we file this protest and a \$25 fee pursuant to OAR 690-11-175(5) and 690-02-030 to 080:

- Oregon's Water Resource Groundwater Management Policy states: "Groundwater shall be managed to promote efficient and sustainable use for multiple purposes. Groundwater overdraft and contamination shall be prevented to avoid health hazards, environmental damage, and costly correction programs. Interference between groundwater uses and competing uses shall be prevented and/or controlled to protect the water resource and existing rights."

Eagle Crest proposes to use 4,140 gallons per minute of pristine groundwater for irrigation purposes and domestic use. In addition, Eagle Crest has applied for a Swalee Water Transfer to allow irrigation from the Deschutes River of nearly 2,000,000 gallons/day. As noted in the attached findings prepared by Liz Fancher, Desch. County Hearings Officer, page 19 - Oregon

Department of Fish and Wildlife presented the following comments: "The County Staff report comments that Eagle Crest's irrigation and domestic usage will be 4,140 gallons per minute which is comparable to 1/3 the flow in the Deschutes River below North Canal diversion during spring and summer months. Is there a connection between the Eagle Crest aquifer and the springs that feed into the Deschutes River down river, and how Eagle Crest usage will affect these springs?"

"Oregon Department of Fish and Wildlife is concerned about the water quality of the Deschutes River and the impact of fertilizers and herbicides used to manage the resorts proposed three golf courses."

Hearing's Officer Liz Fancher comments: "The County Plan states that the county shall conduct a study of the legal, economic and environmental consequences of the use of irrigation water for non-agricultural uses. I am unaware of the status of this study. ODFW would like to have this addressed in the findings and decision for this project."

Has the Water Resources Dept. Conducted a study of consequences of the use of irrigation water for non-agricultural uses?

I am requesting that should this water right be approved, a condition is included which would immediately shut down Eagle Crest's groundwater irrigation if any decline is noted in the surrounding area. I understand Water Resources Dept. will not intervene until a 25' decline is noted in surrounding wells. A 25' decline is catastrophic!

Drought is a natural recurring hazzard, addressed in State - wide Planning Goals, Water Dept. policy and County policy. "Water in adequate quality and quantity is important to all communities, but in a semi-arid region such as where Deschutes County is located, it is of particular importance. Drought is a recurring natural phenomenon, which has done much to direct the county growth and to determine its economic bases. Unfortunately, inadequate information exists on water supplies and on water quality.

GROUNDWATER OVERDRAFT AND CONTAMINATION SHALL BE PREVENTED? What exactly constitutes responsible action should the Water Resources Dept. approve this water right prior to the completion of the underway study of the Deschutes River Basin? Deschutes County is anticipating its EIGHTH CONSECUTIVE YEAR OF DROUGHT. If the findings of the study indicate an abundance of water and no adverse impacts from pumping of the amounts of water proposed, then a sound decision can be made. "COMPETITIVE

EXPLOITATION OF WATER RESOURCES (BOTH GROUNDWATER AND SURFACE WATER) FOR "SINGLE-PURPOSE USES AND COMPETING GROUNDWATER AND SURFACE WATER USES SHALL BE PREVENTED AND/OR CONTROLLED TO PROTECT THE WATER RESOURCE AND EXISTING RIGHTS," Ord.690-410-010(1).

Note: The proposed Eagle Crest expansion area on Cline Buttes is on a known active fault and the Deschutes River directly below Eagle Crest is part of the State Scenic Water Ways Act.

The Bureau of Reclamation states in its 10/1/91 report: "During the initial part of its Conservation project, evidence suggests increasing regional aquifer usage. The Deschutes formation has a highly variable groundwater potential. Because of its highly variable nature, numerous perched water bodies are found within the Deschutes formation. The quaternary basalts are generally more permeable and extensive than the Columbia River formation"

"The aquifer has depth ranges from 700' near Bend, to from 150' to 300' near Redmond. Several areas have perched water tables with depth to water ranging from 50' to 100' above the main aquifer. One such area is located about midway between Bend and Redmond. This perched water table has a shallow water table at 200' to 400' below ground surface."

The Bureau goes on to state: "The aquifer discharges significant amounts of groundwater through springs in the canyons of the Crooked River and Deschutes River."

DETERMINATION OF GROUNDWATER WITHDRAWALS THE MAGNITUDE OF THOSE PROPOSED BY EAGLE CREST MUST BE STUDIED PERTAINING TO FUTURE IMPACTS ON BOTH GROUNDWATER QUANTITY AND QUALITY, AND FUTURE CUMULATIVE IMPACTS ON SURFACE WATER.

The City of Bend pumped about 7,000 acre feet per year and expects to increase that to 8,2000 acre feet per year in a few months (NOTE: the Bureau's report was compiled in 1991) - what is Bend's current withdrawal, and Redmond's, as well as future groundwater withdrawals based on projected growth rates?

Central Electric Co-op studies show in this territory:

1990	-	46 new irrigation pumps	-	24 new wells
1991	-	65 new irrigation pumps	-	31 new wells
1992	-	40 new irrigation pumps	-	24 new wells
1993	-	46 new irrigation pumps	-	24 new wells

Cumulative impacts resulting from the Bureau's Conservation Program must be studied as pertains to groundwater rechargability and impacts on surface water in this county. "The effect on current groundwater users would be minimal from this conservation project, but the losses to the downriver users may be more

significant. Water recharge would be lost to the aquifer where it is stored and released through the springs that help maintain the flows in the rivers throughout the year."

GROUNDWATER OVERDRAFT AND CONTAMINATION SHALL BE PREVENTED.

GROUNDWATER SUPPLIES, PERCHED WATER TABLES, CUMULATIVE IMPACTS ON SURFACE WATER, CURRENT APPROPRIATIONS AND FUTURE GROUNDWATER APPROPRIATIONS BASED ON DESCHUTES COUNTY'S PROJECTED GROWTH RATE (INCLUDING EAGLE CREST'S WATER REQUIREMENTS), REDUCTIONS IN GROUNDWATER RECHARGABILITY CAPABILITIES RESULTING FROM THE BUREAU'S CONSERVATION PROJECT MUST BE IDENTIFIED, STUDIED AND ADDRESSED PRIOR TO APPROVAL OF THIS WATER RIGHT.

OAR 690-410-010 - Adequate and safe supplies of groundwater for human and livestock consumption are given priority over other uses during times of shortage. Deschutes County is anticipating its eighth consecutive year of drought. Until completion of the Deschutes Basin groundwater study, how can the Water Department protect the public welfare in accordance with ORS 536.007 - ORS 536.310 and OAR 690-410-010 should approval of the Eagle Crest water right be granted?

ORS 537.525 assigns the right to REASONABLE CONTROL OF ALL GROUNDWATER WITHIN THE STATE TO THE PUBLIC. The Water Resources Department should with-hold approval of this water right until the comprehensive groundwater study of the Deschutes Basin is complete. Further, in accordance with ORD 536.310 - COMPETITIVE EXPLOITATION OF WATER RESOURCES (BOTH GROUNDWATER AND SURFACE WATER) FOR SINGLE-PURPOSE USE IS TO BE DISCOURAGED WHEN OTHER FEASIBLE USES ARE IN THE GENERAL PUBLIC INTEREST.

* Approval of this water right allows Eagle Crest exploitation of our water resources for single-purpose use - not public benefit - while groundwater information and rechargability is sketchy, as well as impacts to surface water, and at a time when this County is suffering impacts from seven years of drought and anticipating an eighth year of drought.

In accordance with ORS 537-665 - responsible action on the part of the Water Department and the Commission is to proceed with the underway assessment of the state's groundwater resources prior to approval of G-12905. Until this study is completed, ORS 537.730 - items (1) - (5) cannot be accurately assessed - especially as pertains to the fastest growing county in the state, recovering from several consecutive years of drought.

Martha Pagel's Sept. 4, 1992 letter to Central Oregon Commissioners reflects our concerns and substantiates this protest: "With Oregon growing at twice the national rate, the surface supplies - largely fully subscribed during much of the

year - reliance on groundwater is increasing. Now, the risk of depletion from permit issuance is far greater. Unfortunately, our understanding of this extremely complex physical system is not keeping pace with the demands being placed on it. It is getting harder and harder to assure new uses will not impair the groundwater resource."

"A good illustration of these difficulties is the Commission's recent experience with applications for groundwater use for destination resorts in central Oregon. To the extent these developments represent demands not unlike that of small cities, the POTENTIAL IMPACTS ON NEARBY ESTABLISHED USERS OF THE RESOURCE, AS WELL AS ON SURROUNDING CREEKS AND SPRINGS CAN ALSO BE SIGNIFICANT. With ever-increasing requests and WITHOUT MORE DATA, however, AT SOME POINT A REASONABLE DOUBT IS REACHED WHETHER INCREASED GROUNDWATER USE IS SUSTAINABLE."

WE ARE VERY NEAR, IF NOT AT, THAT POINT IN MANY AREAS OF THE STATE, INCLUDING PARTS OF CENTRAL OREGON.

"The groundwater information base will never be perfect. However, in many areas it MUST IMPROVE SUBSTANTIALLY BEFORE THE COMMISSION CAN BOTH ISSUE ADDITIONAL PERMITS AND MEET ITS OBLIGATION TO PROTECT THE GROUNDWATER RESOURCE. Through its statewide Groundwater Assessment Program, the Water Resources Department is attempting to establish the extent and capacity of the state's aquifers."

WITHOUT BETTER INFORMATION, IT IS POSSIBLE THAT PERMIT DENIALS WILL BE MORE COMMON THAN PERMIT APPROVALS.

I have enclosed underlined sections of Liz Fancher's findings and review for your information. Several concerned citizens have objected to approval of Eagle Crest's expansion based on lack of adequate ground water information and surface water impacts. According to a 10/17/91 interoffice memo from Donn Miller to Steve Brown, OWRD, - "The Eagle Crest applications were ERRONEOUSLY APPROVED WITHOUT SELF-REPORTING AND RESOURCE MANAGEMENT CONDITIONS." How was this allowed? We cannot feel reassured by conditions on this water right, when approval has been granted once already by the Water Department without inclusion of resource management conditions. The public welfare has been jeopardized once - do not allow this to happen again.

A 4/26/91 OWRD interoffice memo from Donn Miller regarding Eagle Crest's application for a water rights permit for three wells on Cline Buttes states: "Little is known about the long-term water level response in the aquifer. A more detailed examination is needed. This development will almost certainly impact the flows of the Deschutes River downstream."

7/6/92 memo to Steve Brown, OWRD to Fred Lissner directing Mr.

Lissner to expedite review of Application G-12905 jeopardizes the public welfare and encourages exploitation of the groundwater resource for single-purpose use.

Please refer to Page 66 - Eagle Crest Conceptual Master Plan - "Oregon Trout believes Eagle Crest Phase II could easily damage the fishery by its use of groundwater, surface water pumping from the Deschutes River and septic systems. Withdrawal of several millions of gallons of water a day could affect spring flow rates and hydraulic pressure miles away. The Eagle Crest section of the Deschutes gains most of its irrigation season flow from spring water flowing into the river between Bend and Lake Billy Chinook. Ultimately, flow levels affect anadromous fish in the Columbia River. The Draft Recovery Plan for endangered Columbia River salmon calls for a moratorium on further water withdrawals from the Columbia River basin. The group is also concerned about the possible impact of irrigation effluent on river fish. Oregon Trout states: "It is our opinion that a development of this size could never mitigate its impact on this fishery and should not be built."

This protest disputes Mr. Marbut's findings, paragraph three of his letter to me, dated January 13, 1994.

Further, The Technical Report fails to assess the proposed water use with respect to conditions previously imposed on permits granted for use of water from the same source, or for the same category of beneficial use - OAR-690-160 (1) (c).

Previous conditions are not included in the report, and there is no assessment. Eagle Crest's previous water application G-12429 (permit G-11313) contained NO CONDITIONS DUE TO A DEPARTMENT STAFF ERROR.

The report neglects to evaluate the potential conflict with existing water rights (OAR-690-11-160 (1)(E)). The report simply states there are other existing water rights, and refers the reader to Permit Conditions. The report neglects to provide an evaluation of the potential conflicts with existing water rights, including surface water rights that could be effected by the proposed groundwater withdrawal, as well as cumulative impacts resulting from several consecutive years of drought.

The report fails to evaluate the extent to which water is available from the proposed source during the times and in the amounts requested in the application, (OAR-690-11-160(1)(f)). The report states conclusions only, and DOES NOT INCLUDE AN EVALUATION OF DATA THAT LEADS TO THE CONCLUSION. THE REPORT MUST CONTAIN THE EVALUATION DATA REFERRED TO AS THE GROUNDWATER/HYDROLOGY SECTION REPORT. Both ARLU DeCo and Friends of Cline Butte requested the opportunity to evaluate and respond to this evaluation process and the data base used to reach the

conclusions.

We are concerned that permits are being issued for large ground-water quantities WITHOUT an indepth and comprehensive process of review. We question whether the Department is protecting the public's water resources, as required by statutes and rules.

The report does NOT include an evaluation of whether the amount of water requested is necessary to achieve the proposed water use (OAR-690-11-160 (1)(9)). The report is not clear - does the "900" families include the "500" homesites identified in G-12429 application, or not? Mr. Marbut's 1/13/94 reply is in error. Cline Falls Oasis Drive (42 families) IS NOT AND NEVER HAS BEEN INCLUDED IN EAGLE CREST'S WATER RIGHTS.

Condition #6 appears to protect the ground and surface water resources - but neglects to protect other rights on the source and provides NO PROTECTION FOR SURFACE WATERS THAT COULD BE IMPACTED BY THE PROPOSED USE.

The 25-foot decline standard makes the assumption that the source can withstand a 25-foot decline - regardless of the aquifers depth and fluctuations during drought. We suggest that the source's depth be measured prior to the conclusion of the public interest review in order to protect the basin's surface and groundwater resources.

We request review by the Commission of G-12905 for the following:

1. The Commission stated concern about issuing permits to destination resorts when insufficient groundwater information exists.
2. There have been numerous questions raised about the order of review in relationship to ethical and regulatory standards.
3. OAR-690-11-195 (3)(a) - The Department should obtain growth projections for Deschutes County and evaluate how the ever-increasing demands are impacting the surface and groundwater supplies in the Basin.
4. The proposed use is not compatible with environmental concerns (OAR 690-11-195(c)(A)(B)(C)(D). *Water Quality - the use may interfere with surface waters in the Basin, causing lower water levels and temperature increases, which can lead to pollution of the surface waters and possible declines in recreational opportunities and to aquatic species. Until the comprehensive groundwater study of the Deschutes Basin has been completed, impacts cannot be determined.

CONCLUSION: We believe the proposed use is not in the public interest, and, therefore, the permit must be denied.

Deschutes County stated in a May 7, 1993 Bulletin Water Conservation editorial: "The County will most likely maintain its drought status and that this would allow only special water use permits and other provisions to ration water - a prudent idea that would allow underground springs to recharge."

WITH EVER-INCREASING REQUESTS AND WITHOUT MORE DATA....AT SOME POINT, A REASONABLE DOUBT IS REACHED WHETHER INCREASED GROUNDWATER USE IS SUSTAINABLE. WE FORMALLY REQUEST DENIAL OF THIS APPLICATION UNTIL THE GROUNDWATER INFORMATION BASE SUBSTANTIALLY IMPROVES IN ORDER FOR OWRD TO UPHOLD ITS OBLIGATIONS TO PROTECT THE GROUNDWATER RESOURCE FOR ALL ITS USERS.

Thank you for your careful consideration.

Sandra L. Sands

SANDRA L. SANDS
ARLU De-CO
FRIENDS OF CLINE BUTTE
CANYON RIVER TERRITORY RESIDENTS

CERTIFICATE OF SERVICE - This date - copies of this protest of application G-12905 - mailed to:

Eagle Ridge Devel. - sent return receipt

Water Watch

J.L. Goodell - HAND DELIVERED

Rep. Beverly Clarno

W & H Pacific

R. Riggs, former Mayor of Redmond

M. Millard, C.T. Thomas and ARLU DeCo (Bill Boyer, Chair) - HAND DELIVERED

*original w/ \$25 check
sent Federal Express to OWRD on 2/11/94*

*CC: Martha Pagel, Dir. OWRD
Lorna Steckel, Chair OWRC
1000 Friends of Oregon
Bruce Burger - Board (Water) Oasis Drive Subdivision
Ted Weiss - O.D.F.W.*

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **109529**

3850 PORTLAND ROAD NE
SALEM, OR 97310
378-8455 / 378-8130 (FAX)

RECEIVED FROM: Santa Fe
BY: _____

APPLICATION	G-12905
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 24 OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 25.00

01-00-0 WRD

842.010 ADJUDICAT
831.087 PUBLICATI
830.650 PARKING
OTHER: _____

Protests

\$
\$
\$
\$

REDUCTION OF

ACCT.

COST CENTER AND OBJECT CLASS

VOUCHER #

\$

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:

840.001 COPY FEES
850.200 RESEARCH FEEDS
860.109 MISC REVENUE: (IDENTIFY) _____
520.000 OTHER (P-6) (IDENTIFY) _____

\$
\$
\$
\$

WATER RIGHTS:

842.001 SURFACE WATER
842.003 GROUND WATER
842.005 TRANSFER

EXAM FEE

\$
\$
\$
\$
\$

842.002
842.004
842.006

RECORD FEE

\$
\$
\$

WELL CONSTRUCTION

842.022 WELL DRILL CONSTRUCTOR
LANDOWNER'S PERMIT
OTHER (IDENTIFY) _____

EXAM FEE

\$

842.023
842.024

LICENSE FEE

\$
\$

Protest
125-5-06230001

25.00

06-00-0 WELL CONST START FEE:

842.013 WELL CONST START FEE
MONITORING WELLS

\$
\$

CARD #
CARD #

45-00-0 LOTTERY PROCEEDS

864.000 LOTTERY PROCEEDS

\$

07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011 POWER LICENSE FEE (FW/WRD)
842.115 HYDRO LICENSE FEE (FW/WRD)

\$
\$

HYDRO APPLICATION

\$

109529

DATED: 2/15/14

BY: [Signature]

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **109529**

3850 PORTLAND ROAD NE
SALEM, OR 97310
378-8455 / 378-8130 (FAX)

RECEIVED FROM: Sandra Sandoz
BY: _____

APPLICATION	G-12705
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 2427 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 25.00

01-00-0 WRD MISC CASH ACCT

842.010	ADJUDICATIONS	\$
831.087	PUBLICATIONS / MAPS	\$
830.650	PARKING FEES Name / month	\$
OTHER:	(IDENTIFY)	\$

REDUCTION OF EXPENSE

CASH ACCT.	\$
VOUCHER #	

COST CENTER AND OBJECT CLASS

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:

840.001	COPY FEES	\$
850.200	RESEARCH FEEDS	\$
880.109	MISC REVENUE: (IDENTIFY)	\$
520.000	OTHER (P-6) (IDENTIFY)	\$

WATER RIGHTS:

842.001	SURFACE WATER	\$
842.003	GROUND WATER	\$
842.005	TRANSFER	\$

WELL CONSTRUCTION

842.022	WELL DRILL CONSTRUCTOR	\$
842.021	LANDOWNER'S PERMIT	\$
OTHER	(IDENTIFY)	\$

EXAM FEE

\$
\$
\$
\$
\$

842.002
842.004
842.006

RECORD FEE

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\$
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LICENSE FEE

\$
\$

Protest
125-5-06230001

25.00

06-00-0 WELL CONST START FEE

842.013	WELL CONST START FEE	\$	CARD #	
	MONITORING WELLS	\$	CARD #	

45-00-0 LOTTERY PROCEEDS

864.000	LOTTERY PROCEEDS	\$
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07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011	POWER LICENSE FEE (FW/WRD)	\$
842.115	HYDRO LICENSE FEE (FW/WRD)	\$

HYDRO APPLICATION

\$

T # **109529**

DATED: 2/15/74

BY: [Signature]

RECEIVED
FEB 14 1994

WATER RESOURCES DEPT.
OREGON

5. Alteration of 1254 acres of habitat has a significant impact on wildlife.
6. Raptor use, including golden eagles, of habitats in the project area is common. These birds nest in cliff faces of the Deschutes River canyon and other suitable sites in the general area. The birds use the subject property for foraging.
7. The County staff report comment that Eagle Crest's irrigation and domestic usage will be 4,140 gallon per minute is comparable to 1/3 the flow in the Deschutes River below North Canal diversion during spring and summer months. This must be a peak usage number but that the resort should use millions of gallons of water each day. Is there a connection between the Eagle Crest aquifer and the springs that feed into the Deschutes River down river and how Eagle Crest usage will affect these springs.
8. ODFW questions the wisdom of committing to a development requiring so much water when the results of a middle Deschutes basin water study are expected in a couple of years.
9. ODFW is concerned about the water quality of the Deschutes River and the impact of fertilizers and herbicides used to manage the resorts golf courses. Recommended that the Applicant be required to monitor water quality and to make adjustments if water quality is degraded.
10. Land Use Planning Goal 8 requires full mitigation of impacts on fish and wildlife resources.
11. Some or all of the following should be required as mitigation measures:
 - A. Eagle Crest should contribute funding for the middle Deschutes groundwater study.
 - B. Require annual contributions to a habitat trust fund based on Eagle Crest revenues.
 - C. Develop an animal control policy to prevent harassment of wildlife.
 - D. Create a wildlife education program.
 - E. Develop riparian habitat along portions of any new lakes.

- F. Purchase COID land in the northeast corner of the project area for the County or BLM.
- G. Do not use poisonous baits to kill golf course rodents.
- H. Work with ODFW and BLM to improve habitats on adjacent public lands.
- I. Any large expanses of fence built should be done to specifications which allow the passage of deer.
- J. Stated that ODFW will not be responsible for wildlife damage within the development.

November 1, 1993 letter from Ted Wise, Habitat Protection Biologist, with introduction to a National Geographic article regarding groundwater scarcity and contamination:

1. The Deschutes County Comprehensive Plan prohibits the siting of destination resorts in especially sensitive big game habitat areas. Even though the proposed development is not in especially sensitive big game habitat, it is still big game habitat. Mule deer frequent the area. Development will cause a loss of habitat.
2. While juniper habitats may be widespread, examples of ecologically balanced juniper-sage-bunchgrass communities containing "mature" older trees are extremely rare. The value of such stands is extremely rare.
3. The Deschutes County Comprehensive plan protects sensitive bird nesting sites. There are such sites for Golden Eagles upriver from the present development. The lands these birds hunt includes the land proposed for development. Having an adequate forage base is imperative to their survival and nesting success. The loss of nearly two square miles of foraging habitat must be considered in the mitigation assessment. Erecting raptor perches is little consolation for such loss.
4. The County Plan states that: "The county shall conduct a study of the legal, economic and environmental consequences of the use of irrigation water for non-agricultural uses. I am unaware of the status of this study. ODFW would like to have this addressed in the findings and decision for this project."

FINDING: Deschutes County is participating in a regional groundwater study

with other governmental entities. Results from the study are expected in 1995.

5. The Comprehensive Plan directs the County to seek funding for a county-wide hydrologic study. The reasons for this direction are: "Water in adequate quality and quantity is important to all communities, but in a semi-arid region such as where Deschutes County is located it is of particular importance. Drought is a recurring natural phenomenon which has done much to direct the county growth and to determine its economic bases. Unfortunately, inadequate information exists on water supplies and on water quality."
6. While Oregon Department of Water Resources is responsible for approving the ground water right application, Deschutes County can delay a decision this matter until the comprehensive groundwater study is complete. If the findings of the study indicate an abundance of water and no adverse impacts from pumping of the amounts of water proposed, then a sound decision can be made to move forward.
7. Maintaining the fish populations and their habitats in the Deschutes River for the recreational enjoyment of present and future Oregonians is the responsibility of ODFW. The springs which flow into the Deschutes north of Redmond are very important for the health of the river. Decisions which may unknowingly affect the river flow regimes are definitely of concern to us. Factors that affect water quality are also of major concern to ODFW. As in previously submitted comments, we urge no decision be made that will degrade the water quality. Sewage and stormwater disposal should be in accordance with standards that assure this will not be the case.
8. Policies in the Comprehensive Plan emphasize efforts directed at improving flows in the river. The county should approve no project that is contrary to this policy.
9. Central Oregon Irrigation District makes contributions to a fish and wildlife habitat trust fund on an annual basis to mitigate impacts of its hydro-power diversion. There are currently several hundred thousand dollars in the account. The impact of lost habitat will be felt throughout the life of the development, so mitigation funds should be paid for some years into the future.
10. The Applicant should promote water conservation when facilities are constructed and when occupied through the use of low flow toilets and shower heads and other such measures.

F. Deschutes County Environmental Health Division:

Obtain a current report from DEQ regarding the operation and future potential for the presently WPCF permitted system. Consider using the treated effluent as a supplement to irrigation water (4% is 4%). Perhaps treated effluent would require less odor remedy.

G. The Bureau of Land Management:

The BLM provided the following comments in response to a nearly identical proposal by Eagle Crest in 1992. The BLM has not responded as of this writing to the current proposal.

1. We concur with the mitigation option which affects public lands presented on page 9 of the Wildlife Assessment report, and encourage the implementation of these measures.
2. Mitigation projects proposed on public lands should be planned jointly with BLM staff specialists.
3. BLM supports the proposal to restore lands damaged by off road vehicle use.
4. Rerouting the approach of the Cline Falls Highway with Highway 126 may require a right of way from BLM if realignment affects adjacent public lands.
5. Deschutes County may wish to consider reptiles, amphibians and other species which would utilize the pond areas further. More assessment related to golden eagles which utilize the surrounding habitat for foraging and nesting along the Deschutes River corridor would also be useful.

A document entitled Environmental Assessment prepared by the BLM was submitted to the Hearings Officer, regarding the environmental impact of Eagle Crest's request to construct a water pipeline and 150' by 150', 300,000 gallon (initially 100,000 gallons) concrete water reservoir on BLM land on the east slope of Cline Butte, to provide proper water pressure for domestic uses and adequate flows of water for fire fighting in Eagle Crest Phase II. The document states:

1. Oregon Health Division regulations require a permanent maintenance road around the structure and fencing to prevent vandalism. The Applicant proposes a six foot high chain link fence with wood slats.

2. The proposed second access to the Cline Falls Highway from Eagle Crest II comes in at a point where the sight distance may not be that good. Has this been checked in the field?
3. The bicycle/pedestrian path system is fairly limited. This means bicyclists and pedestrians will be sharing the road with cars. No big deal for the bicyclists, but not acceptable for pedestrians.
4. The local roads need to be wide enough, 26 to 28 feet, to accommodate two way traffic and bicyclists and keep vehicles off the edge of the roads and from breaking up the edge of the pavement.
5. The overall density is low, but pedestrians need to be accommodated on their own separate path system or share a path system with bicyclists. Maybe a bike path on one side of the roads with other paths connecting neighborhoods etc.
6. Higher density, smaller lots, would encourage more walking/biking and would reduce the lineal feet of road per dwelling unit thereby reducing road costs per unit.

At some point, a shuttle bus system could serve Eagle Crest from Redmond, Bend or even the Redmond Airport. A logical terminal/depot area could be set up in both Eagle Crest I and II at a central point. This could reduce external trips to and from this destination resort from nearby cities.

I. Oregon Health Division:

The domestic water system will require plan review through the Health Division Drinking Water Program.

J. Deschutes Reclamation & Irrigation Co., dba Swalley Water:

The master plan for Eagle Crest and our water rights maps coincide. We see no sign of improvements planning to be built on land with Swalley water rights. Therefore, we have no comments or objections concerning this master plan.

October 15, 1993 letter to the Hearings Officer from C.C. Brown, Ph.D., Office Manager for Swalley Water:

A number of years ago, Swalley Water, the WRD Regional Watermaster and ODFW discussed the problem of low river water flows in the Deschutes River between the Swalley irrigation diversion dam north of Bend to the area where

2. The project would not adversely impact any critical environmental element.
3. No cultural or archeological resources were found by a required archeological survey in the area of the proposed reservoir and in the proposed right of way for transmission mains.
4. No sensitive, threatened or endangered plants were found.
5. Cumulative impacts from the proposed project should be minimal.
6. Residual impacts would result from the physical presence of the surface portion of the reservoir facility and the periodic maintenance inspections to the site.

H. Deschutes County Department of Public Works:

The destination resort proposed is fine from an external traffic standpoint provided that the following conditions are met:

1. The turn lanes are placed on the Cline Falls Highway for vehicles making left turns into both Eagle Crest I and Eagle Crest II.
2. Deceleration and acceleration lanes are placed on the Cline Falls Highway at the entrance to Eagle Crest I and II when and if traffic warrants are met for those improvements.
3. The improvements are made at Highway 126 and the Cline Falls Highway as addressed in the Kittelson letter to Bill Lyche dated June 12, 1992 and the Kittelson letter to Mark DeVoney dated September 17, 1992. In addition, the grade separated interchange shown in the drawing furnished by Kittelson is a worthwhile project at a future time as traffic needs require it. Gary Judd and I (Dick Johnson) would add that Eagle Road should probably be brought into the design of any future interchange on Highway 126 and the Cline Falls Highway.

From an internal transportation perspective, the following comments are made about Eagle Crest I and II:

1. Many of the units take access directly from the internal system of collector streets rather than from cul-de-sacs or short loop streets. (Contrast this with Sunriver or Black Butte Ranch.)

big springs add water to the river just below Eagle Crest. It was decided that it would be beneficial to the river to transfer the point of diversion of irrigation water that is currently diverted by Swalley at the north end of Bend to a point further downstream. This plan would, however, be more costly due to water pumping costs. Swalley contacted Eagle Crest about the possibility of selling Swalley surface water rights to Eagle Crest to replace Eagle Crest ground water rights. There was an existing pump facility in place, which meant water could be diverted as soon as the state approved the change of transfer point. There was an earlier right of withdrawal at the Eagle Crest location, but for a different right.

At present there is a normal summer flow of approximately 30 cfs below Bend. The Eagle Crest transfer adds another approximately 5.7 cfs to this total, nearly a 20% increase. When the additional flow reaches Eagle Crest, some 18 miles downstream, Eagle Crest will withdraw only 57% of the added water. The remaining 43% continues on downstream below Eagle Crest. This transfer was arranged with the cooperation and support of Swalley Water, the Regional Watermaster, ODF&W and the Deschutes Basin Resource Committee.

K. Oregon Parks and Recreation Department

October 15, 1993 letter from Jack Wiles, Northcentral Region Manager:

The proposed interchange of Highway 126 and Cline Falls Highway will influence traffic to Cline Falls State Park and will be within the scenic waterway corridor. All Notifications of Intent and necessary approval should be obtained prior to any design or construction of the highway interchange.

OPRD received no scenic waterway notification prior to construction of water intake and pumphouse directly across the Deschutes River from Cline Falls State Park. The project must have Notification of Intent for activity on a Scenic Waterway, with notification of Oregon State Parks and Recreation Department as adjacent landowners on behalf of Cline Falls State Park. Proposed County visit to pumphouse to determine if it should be relocated or mitigated.

FINDING: The water intake and pumphouse is not a structure that is needed to assure the resort's water supply or to qualify for resort approval. The Applicant must, however, obtain County site plan and landscape management zone approval for the structure (DCZO Chapter 18.84), unless the Applicant establishes that the structure is exempt from those requirements. The structure should be shown on the CMP map, in the location approved by the Planning Division. The Applicant may also need to obtain scenic waterway approval from the State of Oregon.

L. Deschutes County Planning Division, Historical Resources

Michael Hall of the Planning Division provided copies of two confidential resource documents that describe archeological sites on Eagle Crest property and on surrounding properties. These documents are portions of a document entitled "A Cultural Resource Survey of the Deschutes River from Bend to the Deschutes/Jefferson County Line" that was prepared in January of 1986 by Sara A. Scott for Deschutes County. The Eagle Crest Phase I property contains two identified sites and there are a number of sites on surrounding property. No sites were identified on Eagle Crest Phase II or on the CRT expansion area of Phase I.

FINDING: The archeological sites identified in Phase I are located outside of the developed areas in Phase I and are not adversely affected by this CMP approval.

M. Oregon Water Resources Department

September 14, 1992 letter from Martha Pagel, Director to the Deschutes, Jefferson and Crook County Boards of Commissioners dated September 14, 1992:

"The Commission's approval of a request to use groundwater is predicated on . . . statutory mandates. Historically, when use of the state's groundwater resource was, in relative terms, small, the risk of depleting aquifers through permit issuance was correspondingly low. With Oregon growing at twice the national rate, the surface supplies largely fully subscribed during much of the year, reliance on groundwater is increasing. Now, the risk of depletion from permit issuance is far greater. Unfortunately, our understanding of this extremely complex physical system is not keeping pace with the demands being place on it. It is getting harder and harder to assure new uses will not impair the groundwater resource."

"A good illustration of these difficulties is the Commission's recent experience with applications for groundwater use for destination resorts in central Oregon. To the extent these developments represent demands not unlike that of small cities, the potential impacts on the groundwater resource can be great. In addition, impacts on nearby established users of the resource, as well as on surrounding creeks and springs can also be significant. . . . With ever-increasing requests and without more data, however, at some point a reasonable doubt is reached whether increased groundwater use is sustainable. We are very near, if not at, that point in many areas of the state, including parts of central Oregon."

* "The groundwater information base will never be perfect. However, in many areas it must improve substantially before the Commission can both issue additional permits and meet its obligation to protect the groundwater resource. Through its statewide Groundwater Assessment Program, the Water Resources Department is attempting to establish the extent and capacity of the state's aquifers."

* "We want to convey to you as clearly as we can that it is no longer safe to assume that obtaining a groundwater use permit is a formality. Without better information, it is possible that permit denials will be more common than permit approvals. Such actions on our part could, of course, have major impacts on local government actions as you seek to implement your comprehensive land use plans. Accordingly, I hope we can build a strong state/local partnership to address our mutual research and planning needs."

[Some initial ideas on how counties might participate in the process include supporting funding for or cooperating in comprehensive groundwater investigations, requiring additional groundwater analysis and information for certain land use decisions, or phasing development projects contingent upon results from groundwater monitoring.]

FINDING: The federal, state and local governments are currently participating in a groundwater study of water in the Middle Deschutes basin. **Note:** After the close of the record in this matter, the State indicated that it did not have the resources to meet its financial commitment to fund a portion of the cost of the study. Whether the State will ultimately honor its commitment, whether other entities will finance the study or the study will be discontinued is unknown at this time. This fact has not been considered in this review, however, as it is not in the record upon which the Hearings Officer must make her decision.

N. Deschutes County Building Division, Redmond Fire Department, and U.S. West Communications responded with no comments.

7. **LOT OF RECORD:** Deschutes County previously determined that the subject property is a legal lot-of-record in land use matters #LR-90-177 and #LL-90-108.
8. **HISTORY:** The subject applications for a conditional use permit and variance are similar to the applications submitted under file Nos. CU-92-105 and V-92-21 in the Spring of 1992 by the Applicants. These two applications, which were accompanied by Tentative Plat file No. TP-92-775, were for a 710 acre expansion of Eagle Crest Resort and a variance to setback requirements for the same stretches of road covered in the subject variance request. The only substantive difference between the two sets of applications is the inclusion of the 36 acre Canyon River Territories Expansion area on the east side of Cline Falls Highway south of and contiguous to Eagle Crest I. This area was not included in the earlier applications.

Due to defects in the County's Destination Resort Combining Zone Map which were identified by the Land Use Board of Appeals and the State Court of Appeals, the previous applications were found to be invalid and no decision was reached. Now that the defects in the County's Destination Resort Map have been corrected, the Applicant has requested that the earlier applications be withdrawn and voided. The Applicant then filed the applications that are the subject of this land use action.

9. **COMMENTS BY OTHER PARTIES:** A large number of documents were received from persons, other than affected agencies, who were parties to the above-referenced land use actions. The testimony and exhibits submitted by this group is summarized below:

- A. Nancy Hall submitted a memorandum, Exhibit 201, that made the following points:
1. Eagle Crest has the burden of proof and persuasion in the land use action.
 2. Ground and surface water is held in trust for the people of Oregon.
 3. It is the goal of the State of Oregon to prevent contamination of groundwater while conserving and restoring the resource.
 4. "Once Eagle Crest Phase II is in place, natural drainages will be inundated with runoff from constant irrigation of the additional proposed golf course, lawns, gardens and grounds." Ms. Hall believes that this may cause a "downward moving saturation front" that could contaminate the principle aquifers. Newton's study assumes that the natural drainage will remain dry.
 5. The Newton report finds that the chance of contamination is very low, not that contamination will be prevented or will not occur, as required by the County code and state law.

FINDING: Ms. Hall has not cited specific provisions of law to support this argument. The Department of Environmental Quality (DEQ) is charged with the responsibility for adopting and enforcing environmental regulations. Any system that will be used in Eagle Crest Phase II will need to obtain DEQ approval. In order to obtain such approval, the Applicant will need to establish that the system will meet all DEQ regulations and protect the environment to the extent provided in DEQ's rules.

6. Hydrologist Joseph Gonthier found, in his review of the Newton study, that "data may weakly support a statement in the study that suggests that Cline Buttes, a volcanic cone, could represent a local zone of

Frelatively high vertical permeability." Mr. Gonthier then stated that no hydrogeologic evidence has been introduced to resolve whether Cline Buttes rocks are indeed low-permeability units. Gonthier also stated that it is extremely difficult to obtain sufficient field data to prepare accurate water level maps for the area.

7. Gonthier stated that the test he considered did not adequately assess the effects of long term pumping. Gonthier also recommended that additional work be done to assess the effect of long term pumping and should include sites outside of the resort boundaries.

FINDING: Mr. Gonthier stated that a "desk top" or "paper model" could be used to assess the impact of long-term pumping on the well tested by Mr. Newton. These additional studies were conducted by Mr. Newton, as suggested by Mr. Gonthier, to assess the impact of long term pumping. That study determined that the results of long-term pumping were negligible (Exhibit 43).

8. DCZO 18.113.050 requires analysis supporting delineation of the impact area. All of the studies address only the proposed expansion and not adjacent areas.

FINDING: The Newton study adequately determined the impact area of the Phase II wells. The study did not, however, address the impact of Phase I wells. This information is required by the destination resort ordinance as the existing resort must comply with all standards of the ordinance, if existing resort facilities are used by the Applicant to qualify for destination resort approval of the expansion area, as has been done in this application. The Applicant will be required to remedy this deficiency prior to FMP approval.

9. DCZO 18.113.050 require that the application include areas of potential instability and water areas. The Cline Falls area is on a known active fault and the Deschutes River from Tumalo to Lake Billy Chinook is a State Scenic Waterway. All improvements within 1/4 mile of a Scenic Waterway must be approved by Oregon State Parks.

10. Goal 5 requires that the County inventory and assess groundwater resources and watershed and state protected river, however, County staff states that there are no Goal 5 considerations.

FINDING: Deschutes County has inventoried and assessed groundwater resources. No groundwater resources in the area of Eagle Crest were placed on the County's Goal 5 inventory.

11. ORS 536.310 (5) states that competitive exploitation of water resources for single purpose uses is to be discouraged when other feasible uses are in the general public interest.

Ms. Hall also submitted a copy of ARLU-DECO's June 29, 1993 testimony, Exhibit 202, on water that was presented to the State of Oregon's Water Resources Department regarding Eagle Crest's water rights permit application. It appears that this document was originally prepared for prior County action on Eagle Crest Phase II and was altered for use in the Water Resource Department proceeding. This testimony includes many of the points raised in Ms. Hall's memorandum.

B. Andy Tillman, member of the Deschutes County Planning Commission, submitted a written document, Exhibit 203, entitled "Likely Effect of Eagle Crest II on Traffic in the Tumalo Area - Cline Falls Road (Cook Avenue)/Highway 20. The document states that:

1. The total number of units allowed at build-out (1410) will be an increase of 3.5 times the current level of 403 dwelling units. At the County average of 2.645 occupants per household, the 1007 new units will house 2,663 new people at the Eagle Crest Resort.
2. The average number of vehicle trips per household in Deschutes County is six to ten. This means that there will be between 6,042 and 10,070 trips per day to and from Eagle Crest above the level which already exists. Additionally, Eagle Crest requires a large staff of employees, some of whom travel through Tumalo to reach the resort. There are currently 250 full and part-time employees at Eagle Crest. Using the growth factor of 3.5 times the current development, it is reasonable to expect that there will be an additional staff of 875 people, not 200 as stated by the Applicant.
3. The Applicant's estimate that 25% of vehicle trips generated by Eagle Crest will pass through Tumalo. Mr. Tillman believes that this number will be higher due to the fact that he believes that many people will be drawn to Bend for shopping and eating. If the 25% number is accepted, the Applicant will add 2,517 trips a day to "downtown" Tumalo. This number will be greater if you add a realistic percentage of the 1,750 trips generated by 875 additional staff members or if you increase the percentage of trips to a higher, more realistic, level. The intersection of 5th and Cook Avenue is already dangerously congested.
4. According to Title 18 of the DCZO, a destination resort must not alter the character of the surrounding area or existing farm uses. The

hope that the county would make sure than an adequate, appropriate sewage system would be designed and installed prior to a full permit being issued."

O. Report from Marjorie S. Turner, PhD., Professor Emeritus, Department of Economics, San Diego State University, P.O. Box 8005, Sister, Oregon 97759 (Exhibit 219). Dr. Turner analyzed the Hobson & Associates report submitted by the Applicant and made comments that are discussed in the Required Findings section of this decision under the DCZO 18.113.070 (C)(c) heading.

P. October 14, 1993 letter from Virgil L. Harper, Route 1, Box 332, Terrebonne, Oregon 97760 (Exhibit 220) that states:

1. Will Eagle Crest meet the County's requirement that sewage be put to beneficial use if it pumps its effluent to Redmond's treatment plant?
2. If sewage is pumped to Redmond, a sewage line will need to cross the Deschutes River. I assume this couldn't happen as this portion of the river is a scenic waterway. If it is run along or under the highway, will the local taxpayers incur a greater tax burden? As Redmond's sewage system is "maxed out," will local taxpayers be required to pay for improvements to Redmond's system to process Eagle Crest effluent?
3. What happens if there is a drought and there is not enough water to serve residents? Is the County legally responsible as it has allowed development to take place when they have seen and been made aware of warning signals, such as reduced well levels on existing wells? The County is responsible for protecting the water supply of its current citizens for future needs.
4.  Why will it take the State Water Resources geologists 3 years to complete a study to determine if there are ample water supplies and it takes only days for the hired experts to determine there is adequate water?
5. Who owns the water in the aquifer that Eagle Crest wants to tap into?
6. Farming practices and destination resorts are not compatible. Adjoining BLM land is leased to a cattle owner for grazing. Cattle can't read No Trespassing signs and they often go through fences. Mr. Harper infers that the cattle owner will be sued by Eagle Crest for trespass, as Eagle Crest has sued the Sands family because they allegedly rode a horse on an Eagle Crest golf course.

Q. October 22, 1993 letter from Maret Pajutee, PO Box 801, Sisters, Oregon 97759 (Exhibit 221), with exhibits, stating:

1. Public need should be a major factor in the consideration of developmental request that could negatively influence public water resources. It is disturbing that Deschutes County processes land use applications without adequate water supply information. The Eagle Crest application should not be approved without the complete results of the County hydrology study.
 2. Eagle Crest should be required to reuse waste water. Septic tanks have the potential of polluting groundwater. Watering golf course with ground water is an irresponsible waste of natural resources.
 3. There can be little doubt that the expansion of Eagle Crest will affect the northerly moving aquifer, reduce discharge of the aquifer to the Deschutes and ultimately add to the cumulative adverse effects to the Columbia River.
-  FINDING: The Hearings Officer finds that the expansion of Eagle Crest will reduce discharge of the regional aquifer into the Deschutes River and will ultimately add to the cumulative adverse effect to the Columbia River. This fact will be considered in determining appropriate mitigation measures for fish and wildlife damages caused by the resort.
4.  The Deschutes River displays moderate to severe non-point pollution which adversely affect fish and aquatic life. The County must consider the cumulative effects of allowing more water use, more toxic golf course chemicals and more untreated human sewage waste next to the river.

Ms. Pajutee's exhibits are:

- A. 10/17/91 Water Resources Department Interoffice Memo from Donn Miller to Steve Brown. This document is discussed below.
- B. 10/22/92 letter to Jen Twinning, Executive Director of ARLU-DeCo from Tom Throop, Deschutes County Commissioner.
- C. 9/14/92 letter from Martha Pagel, Director of the Oregon Water Resources Department, referenced and discussed above.

- D. 1988 Oregon Statewide Assessment of Nonpoint Sources of Water Pollution by Water Quality Division of Oregon Department of Environmental Quality.
- R. Document entitled "Summary of Water Watch Objections to Eagle Crest Permit" presented by William Boyer (Exhibit 222):
1. The groundwater resource of the Deschutes Basin is poorly understood and not as closely regulated as surface water.
 2. The Applicant's technical water report is defective.
 3. The proposed use of water will deplete flows and adversely affect water quality and instream uses in the Deschutes River.
 4. The summary then contains a number of arguments directed to the Water Resources Board.

October 21, 1993 letter from WaterWatch of Oregon (Exhibit 223), with exhibits, stating that Deschutes County should not approve the Eagle Crest expansion until the ground water study of the Deschutes basin is completed as ground water resources in the Deschutes basin are poorly understood. WaterWatch points out that individual domestic and small industrial uses are exempt from regulation, allowing these uses to place a growing demand upon the area's ground water resources. WaterWatch points to the experience of Yamhill County, where the Parrot Mountain area was developed with County approval, in the face of evidence that groundwater supplies were inadequate. Portions of the area were withdrawn from further groundwater appropriations by the State and takings claims resulted. There is now pressure to build a municipal water system to serve area residents, contrary to land use planning policies. WaterWatch enclosed its June 30, 1993 letter of objections to the Applicant's technical water report that was submitted to the Oregon Water Resources Department and a February 29, 1992 letter from William Blosser to Lorna Stickel, Chair of the Water Resources Commission regarding the Parrot Mountain ground water situation.

- S. Written Statement of Carrie Carmella (Exhibit 224), 152 S. Canyon Drive, Redmond, Oregon 97756. Ms. Carmella opposes the Eagle Crest expansion and states:
1. Eagle Crest will be a mini-city located outside of the Redmond Urban Area Growth Boundary that will impact the Redmond Urban Area. The Redmond Urban Area Comprehensive Plan should be considered relevant to the Eagle Crest application because of the immediate effects

a mini city will have on local resources because it is outside of the UGB. Ms. Carmella cites a number of policies from that Comprehensive Plan.

FINDING: The Redmond Urban Area Plan and implementing ordinances do not apply to land uses that occur outside of the Redmond urban growth boundary. This destination resort application is subject to review for compliance with Deschutes County land use ordinances and Comprehensive Plan, not the Redmond urban area plan and land use ordinances.

2. The groundwater study should be completed before these applications are approved. The water rights of farmers and existing users must be protected and water should not be squandered for golf course irrigation.
3. Redmond's sewage treatment plant is at or near capacity. If Eagle Crest connects to the system, Ms. Carmella and Redmond sewer users would be required to pay for the cost of expanding the sewage system.
4. Urban sprawl causes higher public service and facilities costs that are borne by taxpayers.
5. Improvements need to be made to the intersection of US Highways 97 and 126 in Redmond before an interchange for Cline Falls Road and Highway 126 is constructed with public funds to benefit Eagle Crest.
6. Development of Cline Buttes will harm the natural beauty of this natural feature.

T. Numerous documents submitted by Sandra Sands, described as follows:

1. May 3, 1993 letter from Ms. Sands to Representatives Bob Repine and Ray Baum regarding HB 2932 re destination resorts (Exhibit 225). Ms. Sands stated that Eagle Crest has no public services, depends on a septic system and ground water and uses 1.5 million gallons per day to irrigate each of its golf courses. Neighboring wells have dropped five to ten feet but Water Resources will not act until well levels have dropped 25 feet. Ms. Sands also expressed concern of public funding for the proposed Highway 126 overpass, fecal coliform contamination, impacts to wildlife and the large increase in activity in the area of the resort from the expansion.
2. Ms. Sand's 1992 testimony to Deschutes County Hearings Officer Denise Frisbee. The main points raised were:

- c. Ms. Sands believes that approval of Eagle Crest's expansion will violate Goal 5 because the County has not inventoried the quality and quantity of Goal 5 resources, especially ground water supply.
- 4. ARLU - DeCo Exhibits identified by ARLU-DeCo as exhibits numbered:
 - A. 10/17/91 Water Resources Department Interoffice Memo from Donn Miller to Steve Brown (Exhibit 228) regarding changes requested to Eagle Crest's application for a water rights permit for three wells on Cline Buttes and an appropriation of 9.12 cfs. Eagle Crest sought approval to locate the wells closer to the Deschutes River as there was insufficient water in the Deschutes Formation aquifer in the locations selected. The local groundwater is in motion to the north, discharging to the river beginning in the area of Tetherow Bridge so the relocation of the wells will be of little consequence to the river. Relocation of the wells will result in the diversion of water from the intended source aquifer and the hydraulic nature of the aquifer will allow for very high specific capacities which would prevent interference with neighboring wells. The Eagle Crest applications were erroneously approved without self-reporting and resource management conditions.
 - B. 4/26/91 Water Resources Department Interoffice Memo from Donn Miller to File (Exhibit 229) regarding review of Eagle Crest's application for a water rights permit for three wells on Cline Buttes and an appropriation of 9.12 cfs. Mr. Miller states that the Deschutes River loses water between Bend and Cline Falls due to porous lava. Little or no water is lost or added between Cline Falls and Tetherow Bridge. Below Tetherow Bridge, 4 miles from Eagle Crest, the river gains much flow from the regional aquifer. The head in the nearby Eagle Crest well is about 150' below the nearby stream level so the project should not have a significant surface water interference. The wells are not hydraulically connected to the Deschutes River, as defined by state rules. Little is known about the long-term water level response in the aquifer. A more detailed examination is needed. In grander terms, this development will almost certainly impact the flows of the Deschutes River downstream. The impact will be minute since it can not be greater than the diverted quantities. The influence will be delayed due to the slow nature of groundwater movement. The

- a. Eagle Crest has not assured development of recreational and key facilities by surety bonding, as required by County ordinance.
 - b. Cumulative negative impacts to EFU lands in the area of Eagle Crest due to depletion of ground water, septic disposal, traffic impacts, changes to rural quality of life and the impact of creating a new city in the rural EFU land of Deschutes County. This violates the purpose of the EFU zone to protect agricultural lands for farm use.
 - c. The destination resort expansion will occur on land that was formerly productive EFU farm land. Now that the land is irrigated it resembles lush high value farm land.
 - d. The proposed Highway 126 overpass will expend public dollars for a facility that is needed only because of the existence of the Eagle Crest resort. This facility will adversely impact the character of the surrounding area.
3. Memorandum from Ms. Sands to the Deschutes County Hearings Officer dated 10/22/22 (sic) (Exhibit 227) stating:
- a. The County has not finished mapping destination resorts as required by Goal 8 and the County's destination resort ordinance. The County has failed to minimize adverse impacts on surrounding lands and to require financial assurances.
 - b. The County has not assessed the recreational needs of the citizens of the state and its visitors. This assessment is needed to assure compliance with the purpose of Goal 8. Recreation planning must be coordinated with private enterprise and be implemented in such quantity, quality and location as consistent with the availability of natural resources.

FINDING: Deschutes County has held hearings and made voluminous findings documenting compliance with Goal 8 for the destination resort mapping process. The subject property was properly designated for destination resort zoning, according to that process. If the County failed to properly assess needs in that process, the appropriate time and place to have raised that objection would have been in an appeal to the Land Use Board of Appeals, after that decision had been made by the Deschutes County Commission. Foland v. Jackson County, 311 Or 167, 807 P2d 801 (1991).

- J. Article entitled "Habitat Degradation May Push Grouse to Extinction" from The Bend View, April 15, 1993 (Exhibit 237)
- L. Letter dated May 31, 1993 from Maret Pajutee to Richard Benner, Director DLCD; Doug White, Reviewer for DLCD; and George Read, Deschutes County Planning Director (Exhibit 238) regarding periodic review by DLCD and claiming that Deschutes County has failed to adequately protect riparian zones by narrowly defining riparian zones.
- M. Letter dated January 3, 1993 from Maret Pajutee, Biologist, to Michael Rupp of DLCD (Exhibit 239) regarding Deschutes County's Wildlife Plan and Ordinances raising concerns about the County's protection of riparian habitat and zones. Ms. Pajutee enclosed an article entitled "Public Asks for Greater Wildlife Protection" from The Nugget of June 3, 1992, an article entitled "Opportunities and Constraints for Development and Conservation: Teller County/Woodland Park Growth Management Plan," a May 26, 1992 letter from Ms. Pajutee to the Deschutes County Board of Commissioners and Planning Department regarding riparian areas, April 22, 1992 letter to Deschutes County Planning Commission and Department regarding wildlife habitats, and article entitled "Wildlife Habitats in Managed Forests" by Jack Ward Thomas and excerpts from the Deschutes County River Study.

Unlabelled Bend Bulletin articles entitled "Alarms Sound on Fish" dated March 9, 1993 (Exhibit 240) and "Winter Meant Death to Deer" (Exhibit 241) dated March 31, 1993 were submitted into the record. A copy of pages from the 1988 Oregon Statewide Assessment of Nonpoint Sources of Water Pollution prepared by the Water Quality Division of DEQ (Exhibit 242) was also submitted.

- S. October 28, 1993 letter from Clyde Everton (Exhibit 243) making the following points:
 - 1. At the October 14, 1993 hearing an Eagle Crest representative (Mr. Andres) testified that Eagle Crest relies upon the Deschutes County Sheriff's Office for police protection and general security. Mr. Everton questioned the ability of that office to handle the increased workload that an Eagle Crest expansion would cause. The Sheriff is asking for a levy. If that levy fails, how can the Sheriff adequately police the Eagle Crest expansion? Further information is needed on the Eagle Crest security staff.

impact will probably not be measurable but can be inferred through conceptualization of the setting.

- C. Portion of Eagle Ridge Development Corporation application for water rights (Exhibit 230) and three wells, received on 2/26/91, for the proposed use of year round irrigation, including golf courses and domestic use for 500 dwelling including irrigation of up to .5 acres per dwelling.
- D. January 28, 1993 Letter from Beverly Clarno, Majority Whip of Oregon House of Representatives to Martha Pagel, Director of Water Resource Department with enclosure of a January 26, 1993 letter from Jerol E. Andres of Eagle Crest. (Exhibit 231) Mr. Andres sought Ms. Clarno's assistance in obtaining water rights approval for water rights for the resort's proposed expansion. Ms. Clarno referred the request to Martha Pagel for response.
- E. 7/6/92 Memorandum from Steve Brown to Fred Lissner directing Mr. Lissner to expedite review of Application G-12905 filed with Water Resources Department (Exhibit 232).
- F. 2/9/93 Letter to Steve Brown of Oregon Water Resources Department from William Lyche and Thomas Walker (Exhibit 233) thanking him for his assistance with the pending groundwater appropriation application. This letter requests that Mr. Brown change the application from quasi-municipal uses to domestic water use for approximately 900 dwelling units, including irrigation of lawns and gardens, not to exceed .5 acre per unit.
- G. June 1992 Public Opinion Survey on Rural Land Issues prepared for the Deschutes County Board of Commissioners by Western Attitudes of Lake Oswego, Oregon (Exhibit 234).
- H. Testimony of ARLU-DECO on Water Issues in Goal 8 Mapping (Exhibit 235) previously presented to Deschutes County Board of Commissioners and Oregon Water Resources Department.
- I. Eagle Crest Phase II Testimony by ARLU-DECO on Water (Exhibit 236) that was apparently submitted to the State Water Resources Department regarding State issuance of proposed water permit G-12905 on 6/29/93, including 9/14/92 Martha Pagel letter. Both documents were discussed, above.

Highway which he claims are obviously water pipes, not conduit for electric and telephone lines.

6. Eagle Crest Phase II Domestic Water Supply System Master Plan, March 1992.
7. Letter from Tom Blust, Deschutes County Engineer to C.T. Thomas dated October 20, 1993 stating that all utility crossing work on Cline Falls Highway was performed according to the permit and complied with County codes.
8. Letter to George Kolb from Steven R. Hannas (W&H Pacific) dated 10/14/93 stating that a bank of conduits were placed under Cline Falls Highway for future power, telephone, cable television and "to allow for possible future needs such as irrigation, natural gas, domestic water, drainage, or sewage collection system crossings. These conduit banks consisted of four 4-inch PVC conduits, one 6-inch PVC conduit and one 8-inch PVC conduit. These conduits can be used as sleeves or piping to allow future utilities to be placed under the roadway, without disrupting the new street improvements. In addition to the conduit banks, a single 10-inch PVC line (C-900 PVC pipe) was installed across Cline Falls Highway. This line was placed for future needs and could connect the existing Eagle Crest I domestic system to the proposed Eagle Crest II addition. This domestic water connection would connect and strengthen both phases of Eagle Crest domestic and fire protection water systems and improve reliability."

EE. October 29, 1993 letter from Oregon Trout (Exhibit 265). Oregon Trout states that the Deschutes River, north of Bend, maintains a population of brown, native rainbows and rare bull trout. Oregon Trout believes that Eagle Crest Phase II could easily damage the fishery by its use of ground water, surface water pumping from the Deschutes River and septic systems. The group believes that ground water hydrology is complicated but that the withdrawal of several millions of gallons of water a day could affect spring flow rates and hydraulic pressure miles away. The Eagle Crest section of the Deschutes gains most of its irrigation season flow from spring water flowing into the river between Bend and Lake Billy Chinook. Ultimately, flow levels affect anadromous fish in the Columbia River. The Draft Recovery Plan for endangered Columbia River salmon calls for a moratorium on further water withdrawals from the Columbia River basin. The group is also concerned about the possible impact of irrigation effluent on river fish. Oregon Trout

- BB. October 22, 1993 letter from **Bob Eberhard**, 729 North Canyon Drive, Redmond, Oregon 97756 stating support of Eagle Crest's expansion request because destination resorts are allowed uses; Eagle Crest is an excellent corporate citizen and has built a first class resort; Eagle Crest is a substantial employer in the Redmond area; only 1/2 of 1% of the County is developed with destination resorts; this application is supported by the City of Redmond, the Redmond Chamber of Commerce and the business community at large.
- CC. October 21, 1993 letter from **Paul Barnes** of Central Oregon Mortgage, Inc. (Exhibit 259) supports the Eagle Crest expansion. Mr. Barnes states that Eagle Crest has been a major economic force in the County and has been a good neighbor. The expansion will enhance Deschutes County and the State of Oregon.
- DD. October 27, 1993 letter, with attachments, from **C.T. Thomas** (Exhibit 264). Mr. Thomas states that "exploitation of Public Lands by a private enterprise for profit gain should not be allowed as in the case of Cline Butte Utilities (Eagle Crest). The documents submitted include:
1. Notice of Environmental Impact, Cline Butte Reservoir, in the 8/18/93 edition of The Spokesman.
 2. Environmental Assessment by BLM regarding proposed Cline Butte Reservoir dated 8/5/93.
 3. Letter from C.T. Thomas to Phil Paterno dated 8/28/93 objecting to approval of use of BLM land for Cline Butte Utilities' reservoir.
 4. Letter from James Kenna to C. Thomas dated September 22, 1993. Mr. Kenna stated that the reservoir is intended to provide a reliable source of potable water for fire protection purposes at the Eagle Crest resort. A gravity system is more reliable in the event of a fire than is a system that is reliant upon pumps which require electricity. Eagle Crest installed electric and telephone conduits under Cline Falls Highway, not water lines. The Eagle Crest water lines will be located near an existing utility line and access roads. The reservoir will be partially buried and screened by surrounding vegetation.
 5. Letter from C. T. Thomas to James G. Kenna dated 9/30/93. Mr. Thomas states that Eagle Crest intends to use the reservoir for domestic and irrigation purposes and to increase water pressure in their water system. Public land should not be used to irrigate golf courses and to store water for domestic use in Eagle Crest. Mr. Thomas asked Mr. Kenna to review photos of the pipes that were placed under Cline Falls



Gonthier. Mr. Gonthier also agreed that there are significant volumes of ground water in the regional aquifer. The Hearings Officer also finds that water use in Phase II will not reduce the availability of water in the water impact areas identified in the water study, considering existing uses and potential development previously approved in the affected area as the amount of water resource is so large, by comparison to the use proposed by Eagle Crest. Additionally, the Oregon Water Resources Department typically conditions approval of water permits on the continued operation of the system without significant interference to prior, approved uses. The November 1, 1993 letter from David Newton to Bill Lyche (Exhibit 67) states that OWRD has imposed 15 conditions to require monitoring of water levels, to conserve water and to force a cessation of pumping if excessive declines occur. Evidence submitted by the opponents indicates that OWRD inadvertently left these conditions out of its permit for the Phase II irrigation water right. The Hearings Officer finds that these conditions are necessary to assure that Phase II irrigation, commercial and industrial water use is not reduced, as required by the County's destination resort ordinance. The Hearings Officer has, therefore, conditioned approval of this application upon proof by Eagle Crest that all of its existing water rights contain the standard OWRD conditions, including those items referenced by Mr. Newton. If such conditions are not currently included in the existing Phase II water rights, Eagle Crest cause its permit to be amended to include these conditions.

The Oregon Water Resources Division has complete authority to determine whether to allow Eagle Crest to withdraw water from the regional aquifer and whether there is adequate water in the aquifer to supply Eagle Crest, without harm to existing users. Eagle Crest has already obtained water rights for three wells in Eagle Crest Phase I and three wells in Eagle Crest Phase II. The Phase II wells are limited to irrigation and commercial water uses. Eagle Crest has applied for a groundwater permit for water for domestic use for Phase II properties. If this permit is not approved by OWRD, the Applicant will not be able to develop Phase II with any residential units. The Hearings Officer has, therefore, made approval of this permit by the Oregon Water Resource Department a condition of FMP approval.

It appears to the Hearings Officer, from a review of the Newton reports, that Eagle Crest's Phase I water sources do not include any perched water sources. This fact shall be verified prior to FMP approval.

The County's destination resort ordinance requires that "water shall only be taken from the regional aquifer." The Hearings Officer finds that this section prohibits the Applicant from obtaining groundwater from any aquifer other than the regional aquifer. This section does not prohibit the Applicant from using surface water in the resort. This is evident from the placement of this sentence between two sentences that refer to groundwater. The Applicant has demonstrated that all water that is or will be used by the resort will come from the regional aquifer. The Hearings Officer

- * Golf course irrigation will be controlled by an automatic irrigation controller to allow:
 - a) applications during efficient hours of the day;
 - b) reduction of the applications to accommodate weather conditions; and
 - c) hydraulically efficient valve controls to assure uniform and consistent applications throughout the irrigated areas.
- * Covenants and restrictions will be established which encourage the preservation of natural vegetation, the limitation of irrigated areas, and the promotion of non-irrigated landscape improvements.
- * Low-flow plumbing fixtures will be encouraged.

The Hearings Officer believes that the Applicant's water conservation program would be more effective if limits were placed upon irrigation hours for all system users so that irrigation will occur during the hours of the day when it will do the most good. An enforceable limit on hours of irrigation shall be established by Eagle Crest and/or Cline Butte Utility Company. The Hearings Officer finds that the Applicant must demonstrate to the County that these measures will, in fact, be implemented and that a system is set in place to enforce conservation measures. The Applicant shall demonstrate to the County Planning Director, that it has adopted this conservation system for its entire water system and that all new users will be bound to comply with conservation measures.

Based on the above information, the Hearings Officer concludes that adequate water will be available for all proposed uses at the destination resort, based upon the water study and the proposed water conservation plan, for the foreseeable future. It is not certain that there will always be an adequate supply of water for all users in Central Oregon if the rapid growth currently being experienced in Central Oregon continues, but it appears from the evidence gathered regarding current supplies of groundwater, that there is now an adequate supply of water to meet the project needs of the Eagle Crest Resort in the regional aquifer. It also appears that there is a large water resource in the regional aquifer and that the regional aquifer will not be depleted by Eagle Crest's water usage. This is apparent by the large amount of water that leaves the regional aquifer and enters the Deschutes River downriver from the Eagle Crest resort.

The Hearings Officer finds that the Newton study was prepared in accordance with the currently accepted standards of practice for hydrogeologic studies. The results and methodology employed in the study were reviewed and accepted by Joseph

also finds that the proposed transfer of water with Swalley Water will not result in the resort using water from the Deschutes River, in violation of this restriction.

The County's destination resort ordinance also requires that "[w]here a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table." This requirement will be included as a condition of FMP approval.

- L. The waste water disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on Applicant making application to DEQ for a Water Pollution Control Facility (WPCF) permit consistent with such an approved waste water disposal plan. Approval shall also be conditioned upon Applicant's compliance with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. Applicant shall receive approval of a WPCF permit consistent with this provision prior to applying for approval for its final master plan under this chapter.

FINDING: The Applicant has submitted a Sanitary Sewerage Collection and Disposal System Master Plan (Exhibit 26) to address this requirement. Pages 35 through 37 of the Applicant's Burden of Proof Statement provide a summation of the information in Exhibit 26. The Burden of Proof also provides arguments for why it is not practicable to utilize the resort's wastewater for a beneficial use.

The Applicant states that destination resorts have unique characteristics with respect to wastewater. Resorts generate very low flows of sewage in the early stages of development and during low use periods. There are very high flows during holidays and peak vacation times. The Applicant further states that destination resorts are sensitive to the environment, to odors, to unsightliness, and safety due to the extent of outdoor activities that occur on the property.

The Applicant describes four types of sewage treatment and disposal which might be feasible for use in Eagle Crest. These include: 1) a mechanical sewage treatment plant with some form of effluent disposal; 2) a lagoon with effluent disposal; 3) subsurface disposal; and 4) the effluent could be conveyed to Redmond's mechanical treatment facility. The Applicant goes on to evaluate how each system could be utilized at Eagle Crest.

The Applicant concludes that the only practicable method to dispose of sewage at the resort, at this time, is the subsurface drainfield method. This is the current method of sewage disposal at Eagle Crest Phase I. While this system may work fairly efficiently, it provides no beneficial use of the waste water.

In order to determine whether the Applicant's sewage treatment plan complies with the requirements of the destination resort ordinance requirement that the waste water

disposal plan include beneficial use, to the maximum extent practicable, the Hearings Officer looked up the word "practicable" in Webster's New Universal Unabridged Dictionary, Deluxe 2nd Edition. In that dictionary, the word is defined as follows: 1. capable of being done, effected, or performed; feasible; as a practicable method; 2. capable of being practiced; as, a practicable virtue; 3. that can be used; usable; useful; as a practicable road; a practicable weapon. The Hearings Officer finds that the word "practicable," as used in the County's ordinance is used in the manner described as the first definition of the word in Webster's. The Hearings Officer, therefore, reviewed the Applicant's sewage treatment plan to determine whether it includes beneficial use of waste water, to the maximum extent it is capable of being done.

The four options identified as possible for the resort were analyzed by W & H Pacific. Option #4, connection to the Redmond sewage treatment facility, is not possible at this time. The Redmond system does not have the capacity to handle Eagle Crest effluent. In order to serve Eagle Crest, Redmond sewer lines would need to be extended for miles beyond the Redmond urban growth boundary. The sewer lines would also need to cross the Deschutes River, in a stretch of the river that is designated a scenic waterway. Additionally, if Redmond were to expand its treatment facilities and an extension of the system was constructed, there would be no guarantee that Redmond would provide for beneficial use to the maximum extent possible, as required by the destination resort. This option is also prohibited by DCZO Section 18.113.070 (O). That section states that Eagle Crest must be served by an on-site sewage system unless the County Comprehensive Plan allows connection to an existing public sewer system. The Comprehensive Plan does not contain a provision that allows such connection. The Hearings Officer believes that the Comprehensive Plan may be amended to allow Eagle Crest to connect to the Redmond sewer system at some time in the future. Connection to an urban treatment facility is allowed by ORS 197.450 and Goal 8. The Hearings Officer has, therefore, made provisions to allow such connection, if and when it becomes available.

Options #1 & #2 include central collection facilities. Option #1 is the only one of these options that would treat effluent to the point that it is capable of use to irrigate golf courses or to create wetlands. Option #1 facilities utilize chemicals and electrical power in order to treat effluent prior to irrigation or wetland use. Some sewer treatment plants discharge effluent into rivers and streams or into on-site storage facilities. Eagle Crest would not, however, be able to discharge effluent into the Deschutes River and would need to create a storage pond, on-site. The wide variation in flow levels generated by destination resorts make it difficult to maintain a mechanical sewage treatment facility. At high flow levels and low flow levels, these systems have a history of failure.

The Applicant submitted administrative regulations adopted by DEQ (OAR 340-55-005 through -0130) that prohibit the use of treated effluent on golf courses that are

A January to remember

2/8/94
Rainfall low,
mercury high

By Ray Hatton
For The Bulletin

To you folks who want to keep Central Oregon the way it is, just one word: Shssshh. Don't tell anyone about our January 1994 weather; tell outsiders about the one we had a year ago.

To you chamber of commerce types, spread the message, "January was golfing weather (well, almost), the skiing was great, and sunscreen a must."

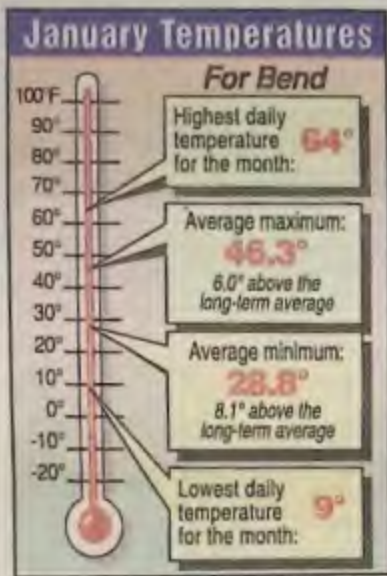
In a month that saw a devastating earthquake in the Los Angeles area, repeated blasts of Arctic air and snowstorm after snowstorm across the Midwest and the East Coast, Mother Nature was awfully kind to Central Oregonians — except that she was stingy with her moisture.

According to weather observer Don Mason, who lives in the Boonesborough subdivision between Bend and Redmond, there was some sunshine on all or part of 30 days in January. He tabulated "clear" to "partly cloudy" skies on 13 days.

As in December, high pressure was the dominant atmospheric condition throughout most of January, with the barometer reading above 30 inches of mercury (29.92 is the average) on all but six dates. However, unlike December, the high-pressure system for several days was centered to the southeast.

Air flow from the south caused some exceptionally mild readings rather than the chilling fog so prevalent in December.

January average maximum



Bulletin Graphic / Greg Cross

temperatures in Central Oregon included 46.3 degrees in Bend, 50.6 in Boonesborough, but only 43.8 in Sunriver — considerable differences in less than 25 miles. For Bend, the January average maximum was 6.0 degrees above the long-term average and ranked seventh-highest on record. In January 1934, Bend's January average maximum was a remarkably mild 50.5 degrees.

Bend's highest reading for January was a record-breaking 64 degrees on the 19th, surpassing the 60 degrees on that date in 1978.

Elsewhere in Central Oregon, mild readings included 63 degrees at Prineville and Sisters, and 64 degrees at Boonesborough, where Mason noted 60 degrees or higher on five dates.

Except for the last day in the month, there were no exceptionally low minimum temperatures. On the 31st, minimum readings included 9 degrees at Bend, 7 degrees at Sunriver, and 6 degrees at Boonesborough and

Redmond.

Bend's average January minimum temperature, 28.8 degrees, was 8.1 degrees above "normal" and ranked fifth-highest minimum on record. Overall, Bend's January average temperature, 37.6 degrees, was 7.1 degrees above the long-term average and ranked fourth mildest since records were started in 1901. (In 1934, Bend's January temperatures averaged 40.9 degrees.)

Not only was January mild but it was also exceptionally dry. Bend's total precipitation, which should be close to 2 inches, was only 0.27 inches. All of this moisture (such as it was), including 2.7 inches of snow, fell between Jan. 1 and 6.

January precipitation totals elsewhere in Central Oregon included a measly 0.09 inches at Boonesborough, 1.17 inches at Sisters, 1.40 inches at Sunriver, but as much as 2.89 inches at Black Butte Ranch, where in two days in early January, 1.6 inches were recorded. Again, as with temperatures, these are significant variations in moisture amounts within a relatively small area.

Since the start of the water year, Oct. 1, 1993, Bend's precipitation total to the end of January stood at only 1.99 inches, about 30 percent of what it should be. Only in three other water years — 1976-77 (with 0.87 inches), 1990-91 (1.59 inches), and 1954-55 (1.69 inches) — has Bend been drier for the Oct. 1 through Jan. 31 period.

In many respects this winter is looking more like 1976-77, a period of drought that extended until the fall of 1977.

Editor's note: Ray Hatton is a former professor at Central Oregon Community College.

Double-digit growth Bend, Portland lead way

BULLETIN
2/9/94

PORTLAND (AP) — The decade opened and will likely close with the Portland suburbs and Deschutes County leading Oregon in population growth.

Figures released Monday by the U.S. Census Bureau showed that the Portland suburb of Tualatin led Oregon cities with a 14.8 percent growth rate from 1990 to 1992, to 17,231 people.

Deschutes County in Central Oregon grew at a 12.4 percent rate, to 84,234 people, with the county seat of Bend expanding by 10 percent to 22,514.

Neighboring Jefferson and Crook counties also were among

the fastest growing areas in Oregon, along with Washington and Clackamas counties, which contain most of Portland's suburbs.

Ed Schafer, the director of the Oregon State Data Center at Portland State University, said the growth pattern will continue because of a strong Oregon economy.

Much of the growth comes from Californians moving to Oregon to escape the weakening California economy and high housing costs, Schafer said.

"We have lower housing costs than most major cities in California or in Western Washington," Schafer said.

MEMORANDUM

WATER
RESOURCES
DEPARTMENT

TO: Water Resources Commission

FROM: Director *MRP*

SUBJECT: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Consideration of Application Number G-12905; in the name of Eagle Ridge Development Corporation; for use of groundwater in the Deschutes River Basin, Deschutes County

I. Issue Statement

On May 4, 1992, Eagle Ridge Development Corporation (Eagle Crest) filed an application for a permit to use 4.01 cubic feet per second (cfs) of groundwater for quasi-municipal water use for a domestic water supply system in the Deschutes River Basin. The Department issued a Satisfactory Report of Technical Review on April 19, 1993. A number of individuals and groups filed objections to the Technical Report, all of which the Department denied. Two objectors have protested the denial of their objections. Pursuant to OAR 690-11-185 (2), the Water Resources Commission must review applications requesting the use of more than 10.0 cfs of water and applications in which protests have been submitted.

II. Background

A. Eagle Crest Development

Eagle Crest is a resort development located on the eastern slope of Cline Butte in Sections 14, 15, 22 and 23, Township 15 South, Range 12 East, Deschutes County. (See Attachment 1, location map) The development is approximately 14 miles north of Bend, and four miles west of Redmond, Oregon. The portion of the development associated with the proposed wells is known as Eagle Crest Phase II. Phase II is a planned resort community. The plan calls for the development of two 18-hole golf courses, 450 single family homes, 150 townhomes, and a 250-room hotel.

Although the resort includes two golf courses, Application G-12905 is for group domestic use and is not for the irrigation of those courses. Eagle Crest currently has a groundwater permit (G-11313) for 4.28 cfs, 3.97 cfs for irrigation and 0.31 cfs for commercial use.



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

B. Application

On May 4, 1992, Application G-12905 (Attachment 3) in the name of Eagle Ridge Development Corporation, was filed in the office of the Water Resources Department. The application proposed the use of 4.01 cfs of water from four wells for quasi-municipal water use. The proposed wells are in the Middle Deschutes Basin between one-half and one mile west of the Deschutes River at approximately river mile 145.

The application included a hydrologic study conducted by David J. Newton & Associates which evaluated the impacts to groundwater resources resulting from recent drilling operations on the Eagle Crest Phase II site. The study was prepared to comply with Deschutes County ordinance requirements.

On February 9, 1993, Eagle Crest asked the Department to amend its application to change the proposed use to group domestic for 900 families including irrigation of lawn and noncommercial garden not to exceed 1/2 acre per unit.

C. Land Use Issues

Eagle Ridge Development applied to Deschutes County for approval of a conditional use for a Destination Resort Conceptual Master Plan. Approval of the conditional use would allow a 746-acre expansion of the existing Eagle Crest Destination Resort and a variance to setback standards for certain proposed roadways along the perimeter of the resort. The matter was referred to hearing. The land use hearing was held October 14 and October 21, 1993.

In a Decision issued January 13, 1994, the Deschutes County hearings officer (hearings officer) approved Eagle Crest's application for conceptual master plan approval for a destination resort expansion. The approval was granted subject to compliance with a number of conditions, including approval of pending water right Application No. G-12905 by the Water Resources Department.

Based upon the hydrologic study done by David J. Newton & Associates for Eagle Ridge Development and the proposed water conservation plan, the hearings officer concluded that adequate water will be available for all proposed uses at the destination resort for the foreseeable future. An independent hydrologist reviewed the report for the county and substantially agreed with the Newton study conclusions.

The decision of the hearings officer is not binding upon the Commission; however, satisfaction of certain water use conditions is a prerequisite of land use approval.

WRC Agenda Item L (REVISED)

April 20, 1994

Page 3

Therefore even tho the decision is not binding on the WRC, per se,
findings of the hearings officer as they relate to the proposed water use are relevant to the Department's evaluation of Application G-12905.

The hearings officer's approval included a condition that water conservation measures be adopted by all Eagle Crest water users, not just those relating to this application. This condition includes the following elements:

- Each domestic water service will be metered.
- A rate structure will be developed that provides financial incentive to conserve water.
- Golf course irrigation will be controlled by an automatic irrigation controller.
- Covenants and restrictions will be established which encourage the preservation of natural vegetation, the limitation of irrigated areas, and the promotion of non-irrigated landscape improvements.
- Low-flow plumbing fixtures will be encouraged.

Eagle Crest has appealed the conceptual master plan decision. The purpose of the appeal is to seek correction of certain of the conditions in the plan approval. One of these conditions relates to water rights. The hearings officer ordered that the Phase I existing water right permits be amended to include the proposed water right permit conditions set out in the Technical Review for Application G-12905. The existing water right permits accommodate the conditions proposed by the hearings officer. Eagle Crest is confident that the condition that requires amendment to the existing water right permits will be removed on appeal.

III. Evaluation

A. Technical Review

Shortly after the initial filing, Application No. G-12905 was delivered to the Groundwater / Hydrology Section for evaluation. A surface water interference evaluation was completed by the Section on December 3, 1992. (Attachment 4) This evaluation made the following factual findings:

1. The source of water is a high-yielding aquifer; and
2. The water-bearing zone of the aquifer has a head difference of at least 250 feet below the elevation of the Deschutes River.

Based upon this evidence, the Groundwater / Hydrology Section found that the proposed groundwater use will not have the potential for substantial interference with the Deschutes River.

The Hydrogeologic Study prepared by David J. Newton Associates supported the Department's finding which indicated that a highly-productive, deep aquifer was encountered during the drilling program for Eagle Crest II. The Newton study found:

1. The groundwater elevations within this aquifer are at least 100 feet lower than the elevations of surrounding domestic and agricultural wells. The difference in head indicates that this is a separate and unique aquifer to the Cline Buttes area.
2. Results from pump testing of the deep aquifer indicates that pumping the well at 1,500 gallons per minute (gpm) will have no effect on surrounding wells. Pumping rates as high as 1,500 gpm were discharged from the Eagle Crest II well with no more than 2.15 feet of drawdown.

The Newton Study concluded that "...no impacts occur to surface water from the pumping of well HR-1. The original conclusions of the OWRD Groundwater Section are correct, and no potential for interference does exist."

Joseph Gonthier completed an independent audit of the Newton Study in the fall of 1992. Mr. Gonthier was an independent hydrologist retained by Deschutes County to evaluate the Newton findings. Mr. Gonthier's review of the test pumping found that water level drawdown did not exceed 0.1 of a foot at the end of the test pumping of the Eagle Crest II well. He stated: "These facts confirm conclusions made in the [Newton] Study that the aquifer source is highly transmissive and that the area of impact is small."

In addition, Mr. Gonthier concluded: "Because the river is generally perched above the groundwater system in the Cline Buttes area, pumping from the groundwater system there should not directly affect the flow of the river."

B. Objections

Objections to the Technical Review were filed by the following individuals or organizations (Attachments 6A-E):

1. Clifford T. Thomas
2. Marion Millard
3. WaterWatch of Oregon, Inc.
4. Sandra Sands (Friends of Cline Butte)
5. Alliance for Responsible Land Use in Deschutes County (ARLU DeCo.)
William Boyer

In general, the objectors alleged that the Technical Review was defective and that the proposed use of water would impair or be detrimental to the public interest. The Department responded by letter to each objector, addressing the issues raised by each. The objections and the Department's responses are summarized in Section C., below.

C. Objection Denials

All of the objections were denied. (Attachments 7A-E) The following is a summary of the principal issues raised in the objections (and referenced in the protests of ARLU DeCo. and the Friends of Cline Butte) and the bases for the Department's denial of the objections:

1. **The Technical Review is defective, as the report fails to include many of the elements required by OAR 690-11-160.**

All of the technical review elements of the public interest evaluation are contained in the Report Technical Review and the Technical Review Checklist.

2. **The Technical Review fails to evaluate the extent to which water is available from the proposed source during the times and in the amounts requested.**

The Newton Study indicates that well No. 2 has been pumping daily for the entire 1993 pumping season (under a different groundwater right for golf course irrigation). Static water level measured in the well in early September—after a full season of pumping to irrigate a new golf course—indicates no drawdown in the production well. In addition, an analysis of short- and long-term effects of pumping by Newton indicates that there is no potential for significant interference with other wells in the area. As a result, the evidence submitted demonstrates that there is adequate water available from the proposed aquifer during the times and in the amounts requested.

3. **The Technical Review fails to evaluate whether the amount of water requested is necessary to the proposed use.**

The technical review resulted in the reduction of the proposed quantity of appropriation from 4.01 cfs to 3.0 cfs, based on Department guidelines for domestic

use that allow for 0.03 cfs for six to ten families (including irrigation of up to 1/2 acre for lawn or garden). Up to 900 housing units would be served under the proposed permit (for a rate of nine families per 0.03 cfs).

4. The application has been processed out of order.

This application has been pending for two years. The Department's backlog reduction strategy included processing groundwater applications statewide on a case-by-case basis where surface water is not affected. Groundwater applications in the Deschutes basin have been processed on a case-by-case basis in accordance with the strategy. Since the Groundwater/Hydrology Section has determined that there is no potential for substantial interference with surface water, more senior surface water applications in the Deschutes will not be disadvantaged by the processing of this groundwater application.

5. The Technical Review fails to evaluate the potential for conflict with existing surface and groundwater rights.

The Groundwater/Hydrology Section analyzed the application and concluded that there is no potential for substantial interference with surface water. In addition, a hydrogeologic study (the Newton Study) has been submitted to the Department and Deschutes County. The study has been peer-reviewed by an independent hydrogeologist (Joseph Gonthier) retained by the County. The study, which is based on pump tests of the proposed well and measurements of water levels in nearby observation wells, determined that water level impacts are highly unlikely and that the groundwater withdrawal will not impact surface waters or other wells.

6. Failure to require water use measurement and reporting violates Oregon's policy and goals which call for control of Oregon's water.

The Technical Review contains the following conditions related to measuring and reporting:

A regulating device shall be installed pursuant to ORS 540.310. (Permit Condition #4)

A measuring device, installation and reporting required pursuant to ORS 540.435. (Permit Condition #5)

The PERMIT HOLDER shall obtain a static water-level measurement for each well during March of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified

water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the permittee shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the permittee's or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The permittee shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit. (Permit Condition #6)

Staff recommend that the following measuring and reporting condition be added to those currently set out in the Technical Review:

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. (Permit Condition #16)

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. (Permit Condition #17)

7. **Condition #14 leads the objector to question if the use amount may be increased beyond the permitted amount, if there should be a transfer of the point of diversion.**

Condition #14 reads as follows: "In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at

the time of perfection of this right."

Condition #14 limits the quantity of any transfer to the quantity perfected, in accordance with state law. No increase is allowed. The amount perfected could be less than, but could not exceed, the original terms of the permit.

8. The Technical Review fails to evaluate land use compatibility information.

See response to objection #9, below. Land use approval has been granted by Deschutes County.

9. The proposed use is not compatible with land use goals, comprehensive plans, or other land use matters.

On January 13, 1994, the hearings officer issued a final Decision granting land use approval to Eagle Ridge Development. This Decision is currently under appeal by the applicant. No other person filed an appeal, and the issues under appeal are limited to the conditions imposed in the hearings officer's Decision. (The Table of Contents of the Deschutes County Hearings Officer's Land Use Decision is appended as Attachment 9.)

D. Protests

Objectors Clifford T. Thomas, Marion Millard and WaterWatch of Oregon did not protest the denial of their objections. Sandra Sands (Friends of Cline Butte) and ARLU DeCo protested the denial of their objections on February 14, 1994. (Attachments 8A and 8B)

If a protest is timely filed, the Director shall refer the application, with the accompanying objections and protests, to the Commission for review.

IV. Alternatives

1. Find that the proposed use of water will impair or be detrimental to the public interest, propose rejection of the application and schedule a contested case hearing to make a final public interest determination.
2. Find that the protests raise valid concerns that the proposed groundwater use described in Application G-12905 may impair or be detrimental to the public interest and schedule a contested case hearing.

3. Find that the proposed groundwater use as described in Application G-12905, as modified by addition of the conditions set out in the denials of objections, will not impair or be detrimental to the public interest, and authorize the Director to issue the permit with appropriate conditions.

V. Summation

Application G-12905 proposes the use of groundwater from two wells in the Deschutes Basin. Eagle Ridge Development Corporation filed Application G-12905 for use of up to 4.01 cfs for group domestic for 900 families including irrigation of lawn and noncommercial garden not to exceed 1/2 acre per unit. A Satisfactory Report of Technical Review was issued on April 19, 1993. Two individuals and three organizations filed objections to the proposed use of water. The Director denied the objections. Two organizations filed protests to the denial of their objections.

VI. Recommendation

The Director and staff recommend that the Commission:

Find that the proposed groundwater use as described in Application G-12905, as modified by addition of the conditions set out in the denials of objections, will not impair or be detrimental to the public interest, and authorize the Director to issue the permit with appropriate conditions.

Attachments

- 1) Location map
- 2) Application map
- 3) Application G-12905
- 4) Groundwater/Hydrology Section Report
- 5) Technical Review Report
- 6) Objections to the Report
- 7) Denials of the Objections
- 8) Protests
- 9) Table of Contents of the Deschutes County Hearings Officer's Land Use Decision

Reed Marbut/Ed Gabriel
Water Rights/Adjudication Division
April 8, 1994

HYDROGEOLOGIC STUDY

EAGLE CREST PHASE II

Application No. 6-12905
Permit No.

RECEIVED

MAY 04 1992

WATER RESOURCES DEPT.
SALEM, OREGON

HYDROGEOLOGIC STUDY

EAGLE CREST PHASE II

Application No. G-12905
Permit No.

Prepared for:

Eagle Crest Partners Limited
Redmond, Oregon

April 1992



DAVID J. NEWTON ASSOCIATES, INC.

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PURPOSE AND SCOPE

This report presents the findings of a hydrology study for Destination Resorts at their Eagle Crest Expansion Site, known as Eagle Crest Phase II, Deschutes County, Oregon.

David J. Newton Associates, Inc. (DNA) evaluated geologic and hydrogeologic conditions within the site area to determine the impact to groundwater resources resulting from recent drilling operations on the Eagle Crest Phase II site. The evaluation was prepared to comply with Deschutes County ordinance requirements.

The study includes:

- ♦ Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area.
- ♦ An estimate of water demands, based on development plans and calculated by WH Pacific for the destination resort at maximum buildout, including a breakdown of estimate demand by category of consumption, including but not limited to residential, commercial, golf courses, and irrigated common areas. It, also, includes water demands for fire protection.

Available water well logs were obtained, encompassing an area west of Cline Buttes and east of Redmond, along with relevant geologic and hydrogeologic reports for the Cline Buttes-Redmond area. General area-wide hydrogeologic conditions were evaluated to determine the overall impact to the regional aquifer systems that water well development on the Eagle Crest Phase II site might have, realizing the complex nature of the subsurface geology.

Three exploratory borings were drilled on the site. One hole, Pilot Hole #2 (PH-2) was abandoned due to a low yielding water-bearing zone. Two of the borings were converted to wells, Pilot Hole #1 (PH-1) and Eagle Crest Phase II well #1 (EC II-1), and each was pump tested. The information gathered from examination of the drilling cuttings collected from each well, and aquifer flow test information, yielded significant information about the productive zone at the Eagle Crest Phase II site, and how pumping that zone might impact other existing wells in the Cline Buttes area.

Recent studies of groundwater quantity within the Deschutes Drainage Basin by the Bureau of Reclamation, Maddox, Sceva, and this office have determined that there are large quantities of unused water within the aquifer systems. A trend towards urban growth and

away from irrigation has been noted, which will decrease current groundwater demands, as well.

FINDINGS AND CONCLUSIONS

A highly productive, deep aquifer was encountered during the drilling program initiated at Eagle Crest Phase II during the Fall of 1991 and the Winter of 1992. Groundwater elevations within this aquifer are at least 100 feet lower than elevations within surrounding domestic and agricultural wells, including adjacent Eagle Crest Resort wells. The difference in head indicates that this is a separate and unique aquifer to the Cline Buttes area. Interpretation of well cuttings places this deep aquifer, at least in part, within Deschutes Formation volcanic rocks and the John Day Formation.

Results from pump testing of the deep aquifer indicates that pumping the well at 1,500 gpm will have no impact on surrounding wells. Pumping rates as high as 1,500 gpm were discharged from EC II-1 with no more than 2.15 feet of drawdown. PH-1, the observation hole, 35 feet away from EC II-1, had a drawdown of only 0.1 feet. Studies of wells in other parts of the Deschutes Drainage Basin indicate that transmissivities of units increase within deeper units of the Deschutes Formation. This was what was found during this investigation when comparing the aquifer within EC II-1 and PH-1 with surrounding shallower Deschutes Formation sedimentary aquifers.

There is no usable surface water source within the boundaries of Eagle Crest Phase II. The high yielding groundwater source is needed to meet the ultimate water demands. An ultimate water need of 2,331 gallons per minute (gpm) was calculated (domestic and commercial) for the Eagle Crest Phase II development. 1,780 gpm of the total will be needed when the two 18-hole golf courses are completed. The second golf course will be built subject to future market demand. EC II-1 and PH-1 will supply the first golf course and 551 gpm demand for domestic purposes (1,440 gpm). Water samples collected and analyzed from the aquifer indicate analyzed constituents well within EPA drinking water quality standards.

SITE DESCRIPTION

The project site is located approximately four miles west of Redmond in Sections 14, 15, 22, and 23, Township 15 South, Range 12 East, Deschutes County, Oregon (Figure 1).

Eagle Crest is a resort development located on the eastern slope of Cline Buttes (Figure 2). Topography is varied, ranging from gentle to steep slopes. The site ranges in elevation from 2900 feet mean sea level (MSL) to 3200 feet MSL climbing from east to west up the slopes of Cline Buttes. Cline Buttes is a silicic volcanic dome which rises abruptly above the relatively flat Deschutes Basin floor which is covered by sedimentary and volcanic rocks.

The horizon is dominated by other volcanoes, cinder cones, and volcanic vents which attest to the volcanic history of Deschutes County. These features include Powell, Tethrow, and Fork Horn Buttes, and Smith Rocks to the northeast. To the west of Cline Buttes are the foothills of the Cascades and High Cascades.

Near the eastern edge of Cline Buttes is the canyon of the Deschutes River, one of three major rivers within the Deschutes Drainage Basin. This river originates to the southwest in the Cascade Mountains and follows a northerly course towards the Columbia River. At Cline Falls State Park, it has formed a steep walled canyon which can be seen from the park and from Highway 126 where it crosses the river. The northeasterly boundary of Eagle Crest Phase II is approximately one-quarter of a mile west of the river.

Climate within the Cline Buttes-Redmond area is semi-arid. Rainfall averages about 11.5 inches per year. There are a few intermittent drainages which direct water from precipitation down from Cline Buttes. Vegetation consists of Junipers, sagebrush, rabbit brush, and other low shrubs and grasses.

Eagle Crest Phase II is a planned resort community. We understand that at proposed maximum buildout there will be two, eighteen hole golf courses, 450 single family homes, 150 townhomes, and a 250 room hotel. Public and irrigation water demands will be provided from deep water supply wells. The locations of the two completed wells, EC II-1 and PH-1, are shown on Figure 2.

GEOLOGY AND HYDROGEOLOGY

Regional Geology

Eagle Crest Phase II rests on the eastern flank of Cline Buttes. The area is on the eastern edge of the High Cascade region of Oregon, adjacent to the Volcanic Plateaus of Central and Eastern Oregon. The geologic history of the area is composed primarily of recurrent episodes of volcanism (Peterson, et al, 1976).

As indicated in Figure 2, the site area is underlain by a varied assortment of volcanic dikes and flows, ash flow tuffs, cinder cones, and volcanically derived sediments. The rocks exposed at the surface vary in age from 54 million years old to recent.

Cline Buttes is composed of the oldest exposed rock within the site area. Peterson (1976) describes Cline Buttes as a rhyolitic intrusive-extrusive dome of John Day age (Tpp - Early (?) - middle Oligocene to early Miocene). The Clarno Formation (Tpp) is exposed to the southeast at Forked Horn Buttes.

The Deschutes Formation (QTds) of early Pliocene to early Pleistocene lies unconformably on top of the Pre-Pliocene rocks. Widespread volcanic activity produced an assortment of

volcanic flows and related events. Several hundred feet of Deschutes Formation was deposited during this time. Units within the Deschutes are relatively flat-lying to gently sloping. It was deposited on a highly irregular and varied relief landscape (Stensland, 1970). Some slopes within the John Day Formation, a few miles north of Eagle Crest Phase II, have been estimated to be as high as 60 degrees.

The Deschutes Formation is composed of a variety of volcanics and volcanically derived sediments. Stensland (1970) identified nine distinct ash-flow tuff units, eleven interbedded and intracanyon basalt flows, a mudflow breccia originating from Forked Horn Butte, and various sedimentary and cinder and pumice units. These units are observable in outcrop within the region.

The deepest wells within the area were drilled for the City of Redmond. Drillers logs for the wells indicate that the Deschutes Formation is at least 500 feet thick within the Redmond area, east of Cline Buttes.

Overlying the unconformity at the top of the Deschutes Formation are Late Pleistocene intracanyon and plateau-forming basalt flows (Qb) and other recent surficial deposits including alluvium (Qal) and slopewash.

Site Specific Geology

Three exploratory borings were drilled at the Eagle Crest Phase II Site. The locations of these borings (now converted to water-supply wells, or abandoned) are shown on Figure 2. The borings were correlated to wells outside the site area. A schematic geologic cross section of the site and area to the west and east is shown on Figure 3. The subsurface geology is highly variable and complex. Numerous canyons were formed as the ancestral Deschutes River made its way north through the area. Canyons were often filled with basalt flows which separated and isolated originally single sedimentary or volcanic units.

Sedimentary deposits within the Deschutes formation thin from up to 400 feet in thickness near Redmond to less than 100 feet in the subsurface on the flanks of Cline Buttes. Up to 400 feet of volcanic units were encountered in the EC II-1 (Figure 3 and Appendix A). EC II-1 was drilled to a total depth of 800 feet. Volcanic rocks were encountered from 300 feet to total depth. They have been interpreted primarily as ash-flow tuffs to welded tuffs with interbedded cinder deposits. These units are light brown to light gray and pinkish to light orange. At approximately 560 to 610 feet, several units of black cindery rock were encountered. Samples of some of the tuff units had visible pinhole porosity. The cindery units appeared to be uncemented to slightly cemented. A 15 foot white unit was encountered at 761 feet in depth and have been described as pumice by the driller. Based on the detailed descriptions given by Stensland and other authors, the tuffs have been interpreted as part of the Deschutes Formation. John Day rocks may have been penetrated in the last 40 feet of the boring.

In Figure 3, it is apparent that the amount of sedimentary rocks associated with the Deschutes Formation increases to the east, replacing volcanics at depth. Sediments tend to increase in thickness, in all directions, away from the flanks of Cline Buttes.

Regional Hydrogeology

The John Day and Clarno Formations generally have very low permeability, which prohibit their ability to be used for high yield water-supply wells. According to Stearns (1930), of the wells he studied that were successful in these zones, and yielded ample water for domestic purposes, most produced from 5 gallons per minute (gpm) to 15 gpm. Some interflow zones might yield higher amounts, but to date, no known wells have penetrated them.

Maddox (1978) performed a detailed study of the groundwater resources within the Redmond area. Four general aquifer systems were defined in this study of over 200 drillers' logs. These zones were identified by different static water levels or heads and generally consist of "A", the shallowest zone which is unconfined with an average static water level elevation of 2,932 feet; "B", a zone with an average static water level elevation of 2,827; "C", the regional groundwater system with an average static water level elevation of 2,727 feet; and "D", a deeper aquifer believed by Maddox to be within the John Day Formation with a static water level elevation of 2,474 feet.

Water production occurs within shallow alluvium. These aquifers are unconfined and are sensitive to changes in climate (precipitation amounts). Recharge generally comes from surface water bodies, rivers or creeks and the great amount of water seepage from the miles of canal systems within the area (Bureau of Reclamation, 1991). The canal system supplies water to other aquifers, as well.

Other aquifers occur within the Quaternary Basalt flows and interflow zones, and within volcanic sediments within the Deschutes Formation.

The third or "C" aquifer of Maddox is the regional water system for most of Deschutes County. The majority of wells, domestic and other, within the Redmond area, produce water from this zone. This aquifer is in the Deschutes Formation and occurs at an average elevation of 2,700 feet within the Cline Buttes - Redmond area. Water within this aquifer is confined - meaning that the aquifer is isolated from the atmosphere by impermeable geologic formations. Groundwater within this aquifer flows towards the north, generally at the gradient of the Deschutes River. The estimated transmissivity for the Deschutes Formation aquifer studied in Maddox's report was 60,000 gallons per day per foot (gpd/ft). The City of Bend study (Becon 1979), reported transmissivities up to a few hundred thousand gpd/ft and estimated that the velocity of flow within the Deschutes Formation of 25 feet per day or less. The City of Bend study, also stated that within the formation permeability and transmissivity increased within deeper units. The deep City of Redmond

wells confirm the hypothesis, producing up to 1,000 gpm with very little drawdown of water levels.

In general, the flow gradient within the regional groundwater system slopes gently towards the north, there are some anomalies within the system. These areas include Bend, Awbrey Butte, and Forked Horn Butte near Redmond. At Forked Horn Butte there is a marked steepening of the gradient adjacent to the butte. This groundwater flow depression, mapped by Maddox, has been explained as high vertical permeability in the vicinity of the volcanic vent, directing groundwater into deeper flow systems. The Deschutes River in the vicinity is perched above the regional groundwater table.

The fourth, or "D", zone of Maddox was found in a well in the center of Redmond, with an anomalously deep static water level, 2,528 feet - MSL. The static water level within the water-bearing zone in this well was almost 200 feet deeper than the regional water system. At the time of the report, Maddox hypothesized that this zone was John Day Formation gravels.

Few deep groundwater wells have been drilled within the Cline Buttes area. In the past, deep wells have yielded only a small amount of water. The Deschutes Formation, at least the sedimentary units which are the prolific producers within the Redmond-Cline Falls area, thins dramatically onto Cline Buttes (Figure 3). This thinning section tends to be higher in elevation than the regional water system, so it is often dry.

Groundwater Quantity

Groundwater quantity within the Deschutes Basin is of concern to the Oregon Water Resources Department (OWRD) and to residents within the basin. Several studies have been completed to answer the groundwater quantity question. Maddox (1970) and Sceva (1968) have estimated aquifer recharge and losses. The latest study of groundwater resources was undertaken by the Bureau of Reclamation, Pacific Northwest Region, a part of the United States Department of the Interior, the last half of 1991. To quote part of their report:

"There are large amounts of recharge from precipitation, and irrigation, canal, reservoir, stream and lake losses. The Watermaster's Office estimates that generally the stream losses for the Deschutes River range from 7 to 18 percent and the canal conveyance losses range from 30 to 50 percent (Clark, personal communication, 1991). The canal losses mostly occur as they pass over basalt and porous sediments. Frink (1968) reported that an estimated 1,122,000 acre-feet (1.004×10^9 gallons per day) of groundwater passes under the area each year. Of this, an estimated 450,000 to 575,000 acre-feet is lost from reservoirs, lakes, streams and rivers. The balance of the recharge is from irrigation losses and precipitation on the area..."

The report goes on to talk about the importance of water conservation measures and how certain measures might positively or negatively impact water users. Latest predictions for growth within the Deschutes Groundwater Basin is toward urban growth, rather than agricultural growth. The last sentence in the report states "Because of the large unused groundwater resource, it is unlikely that increased growth and the associated additional groundwater usage will have any significant effect on the regional aquifer."

This office presented a groundwater study of the Deschutes Drainage Basin for the Deschutes County Planning Commission describing the general groundwater characteristics. In the study DNA did a preliminary assessment of water availability within the basin taking into consideration precipitation, recharge, water losses, geologic formations, the groundwater and surface water dynamics within the basin, and groundwater storage in order to ascertain a reasonable groundwater quantity. All available reports were utilized, and numerous drillers' logs evaluated. In general this is what was presented to the county in a presentation in June 1991:

To visualize the amount of groundwater in the zones supplying water to Deschutes County users, it is best to compare volumes with tangible objects. The Deschutes River is a good example.

Gauging station records for the period between 1914 and 1989 indicate that low flow in July on the river just north of Bend averages about 30 cfs. This is the flow remaining after canal diversions at upstream points. This flow rate corresponds to about 20 million gallons per day.

The amount of water consumed each day in Deschutes County is about 22 million gallons per day. This estimate is based on 63,000 residents and a average consumption rate of 350 gallons per day per person. Therefore, the mean July flow of the Deschutes River just north of Bend is comparable to the amount of water consumed each day by County residents.

We can estimate groundwater quantities in terms of the Deschutes River flow and daily consumption.

Review of well logs for points throughout Deschutes County indicate that the prevailing depth range is between 200 and 400 feet. Reviews indicate that the water-bearing zones supplying water to the wells are generally within a 200 foot thick zone.

Since ground water flow is south to north, if we were to look at a representative cross-section length of 30 miles, and a saturated thickness of 50 feet, adjusted from 200 feet allowing for water concentration in narrow zones between basalt flows, the saturated cross-sectional area is 8 million square feet. However, water is contained only in the void space of this area.

Assuming about 30 percent void space, the actual saturated area is about 2 1/2 million square feet. Of this saturated area, we can extract about 25 percent of the water. Therefore, the extractable saturation area is about 625,000 square feet.

The July Deschutes River flow is about 30 cubic feet per second. We can visualize the amount of ground water moving through the cross-section by determining the number of rivers it would take to fill the extractable water area of the cross-section. To do this, we must find out how big a cross-section is requiring in the ground to pass the 30 cfs river flow, then we can estimate how many "equivalent rivers" it takes to fill the extractable saturation zone.

The size of an equivalent river cross-section depends on groundwater velocity and porosity of the water-bearing zone. Groundwater velocities are estimated to range between 10 and 25 feet per day. Therefore, the equivalent subsurface area required to transmit 30 cfs based on a 10 foot per day groundwater velocity is about 250,000 square feet.

Based on an extractable groundwater area of 625,000 square feet, the available groundwater passing through the cross-section is equivalent to 2 1/2 times the flow in the Deschutes River just north of Bend in July. This flow is about 2 1/2 times the current daily consumption of all County residents.

For a groundwater flow velocity of 25 feet per day, the equivalent subsurface area required to transmit 30 cfs is about 104,000 square feet. At this velocity, the available groundwater passing through the cross-section is equivalent to about 6 times the Deschutes River flow, and about 6 times current daily consumption.

Groundwater investigations for the City of Redmond estimated groundwater flow at 1/2 to 2 1/2 million gallons per day through sections across 1 out of 4 water-producing zones. This amounts to the 50 gallons per day per foot of extractable water along a line crossing the direction of groundwater flow. Taking a 30 mile cross-section length, the extractable groundwater flow is about 8 million gallons per day for this single water-bearing zone. Discounting the shallowest zone, the total flow for the 3 remaining zones currently tapped by wells would be about 25 million gallons per day. Based on this estimate, the extractable groundwater is about 1/4 times the Deschutes River flow at Bend and about 1/8 times the current daily consumption.

These estimates are highly conservative and underestimate the extractable ground water by a significant margin. The reason for underestimation is no allowance for additional groundwater reserves in basalt and sediment formations below the zones currently tapped for water supply. The basalt and

interlayered system and Deschutes formation materials extend for several hundred feet below the prevailing range of well depths in the County. Allowing for this additional thickness, and considering demonstrated continuous pumping capacity of large city and irrigation wells, it is reasonable to estimate extractable groundwater at 5 to 10 times the July flow of the Deschutes River, or 5 to 10 times the current estimated daily consumption.

Site Hydrogeology and Aquifer Characteristics

Because of the need for groundwater for the development at the Eagle Crest Phase II site, careful consideration of the regional groundwater system was made in planning for water-supply wells. Several factors had to be included in the planning for drilling sites: (1) Need for high yielding wells; (2) Location of wells needed to be a significant distance from the Deschutes River to comply with Oregon Water Resources Department (OWRD) requirements of non-interference with surface water bodies by wells; (3) Non-interference, "no impact", to residential wells; (4) Precarious position of site where known thinning of Deschutes Formation sediments occurs, potential of penetrating John Day Formation rocks (Cline Buttes) at shallow depths, and lack of high yielding wells within the John Day Formation; (5) Cost of finding and producing necessary water for development purposes.

Three exploratory borings were drilled on the site from Fall 1991 to Winter 1992. Each of the three borings were located over one mile from the river.

PH-1 is located in the SW 1/4, SE 1/4 of Section 15, T15S, R12E. It was drilled to a total depth of 800 feet. Sedimentary rocks were encountered in the upper 60 feet, only, at this location. Volcanic rocks, of varying nature, were encountered from 60 feet to total depth. The drillers' log indicates that basalt, pumice, cinders, and andesite were encountered during drilling. Colors ranged from black to gray to red to brown. At a depth of 608 feet, a water-bearing cinder zone was encountered. An air test indicated that this zone could produce only 30 gpm, with unknown drawdown. The boring was left open, temporarily, while Pilot Hole #2 (PH-2) was drilled. The static water level in PH-1 was estimated to be between 520 to 540 feet below ground surface. The static groundwater elevation would be between 2,580 and 2,600 feet - MSL, over 100 feet deeper than in the wells at Eagle Crest Phase I.

PH-2 was drilled in the SE 1/4, NE 1/4 of Section 22, T15S, R12E. Sedimentary and volcanic units were encountered to 390 feet in depth. From 380 to 390 feet, a thin water bearing zone was encountered near the base of a sandstone and conglomerate unit. An air test indicated that this unit could yield approximately 25 gpm. The hole was deepened and volcanic rocks were encountered from 390 feet to total depth. The water-bearing zone at 380 feet in depth, $\pm$ 2700 feet - MSL, corresponds to water-bearing zones in other area wells, including Eagle Crest Phase I wells, one mile to the northeast. No static water level could be measured because the hole collapsed when the drill pipe was removed. Similar

volcanic rocks to PH-1 were encountered in this boring. No other water-bearing zone was encountered.

A 6-inch-diameter steel casing was then installed in PH-1 to 800 feet, with the hopes that this well might yield more than the initial 30 gpm discharge during the air test. The steel casing was perforated in zones known to have been water bearing during drilling, 600 to 620 feet and 700 to 800 feet. A short pump test was performed on the well. The static water level was measured at 519.6 feet in depth, 2592 feet - MSL. The well was pumped at 215 gpm, average, with no drawdown - within 2 minutes the water level stabilized at the original static water level.

EC II-1 was drilled 35 feet ^{west} northeast of PH-1. The 17-inch-diameter boring was drilled to a total depth of 800 feet. About 100 feet of interbedded sandstone and volcanic rocks were penetrated during drilling, from approximately 200 to 300 feet in depth. Volcanic rocks were penetrated from 300 feet to total depth. Water was encountered in several zones from 540 to 800 feet. Drilling samples were collected and a portion of the samples (540 to 620 feet) sent to this office for interpretation and determination of proper screen sizing. The samples were predominantly pinkish to light grayish brown tuffs to welded tuffs. At 570 feet, a broken basaltic vitrophyre or cinder zone was identified. This zone was apparent through 610 feet. There appeared to be a color change at 610 feet to a darker brownish gray tuff. Pinhole porosity was apparent on surfaces in many of the cuttings. Age identification of this interval is difficult. However, it appears possible that at least the upper interval of tuffs are similar in nature to those identified by Stensland as part of the Deschutes Formation (Figure 3).

14-inch-diameter factory perforated casing was placed from 510 to 790 feet in depth, with a 10-foot-steel tailpipe from 790 to 800 feet. The static water level was measured at 519.3 feet, or ± 2591 feet - MSL. A pump test was performed on this well March 17, 1992. PH-1 was used for an observation well. No other wells were utilized as observation holes because of the distance to the closest wells were over 3000 feet away.

Figure 4 illustrates the results of the pump test within the pumped well. An initial discharge rate of 700 gpm was set in order to see how the aquifer would respond. One minute water level measurements were taken in the pumping well and two minute interval water level measurements taken in the observation hole, PH-1. Within three minutes, the pumping well stabilized with a drawdown of 1.26 feet. PH-1 stabilized at four minutes with a drawdown of .05 feet. After 12 minutes the pump was shut off. Both wells recovered immediately. The pump was started again and set for a discharge rate of 1,050 gpm. Within six minutes the pumping well stabilized with 1.62 feet of drawdown. PH-1 stabilized within two minutes with .1 feet of drawdown. This pumping rate was continued for eight hours with no increased drawdown in either well. At eight hours, the pumping discharge rate was increased to 1,200 gpm. The water level stabilized within eight minutes with 1.83 feet in EC II-1 of drawdown. At 9 hours, the discharge rate was increased again to 1,500 gpm. The water level in EC II-1 stabilized within six minutes with 2.15 feet of drawdown. The

observation well was unaffected by the increasing pumping rates and remained stabilized with .1 foot of drawdown.

In comparing pumping rates with feet of drawdown, it was calculated that the well became more efficient with increased pumping rates. The ultimate pumping rate of the EC II-1 will be limited by casing diameter, pump size, and feet of perforations. Determination of the transmissivity of the producing zone in EC II-1 is difficult due to the flat time/drawdown curves for each pumping rate. The zone can probably be compared to wells within the Bend area which have transmissivities in the few hundred thousand gallons per day per foot range. The hydrologic characteristics of the completed zone is not completely understood. However, zones of fractured volcanic rocks and cinders were encountered which can be highly permeable. Also, the tuffs appeared quite porous from the samples collected. Primary or secondary fracturing of these sections would enable large amounts of water to flow through them.

The highly productive zone encountered in EC II-1 and PH-1 are anomalous for the area. Two possible explanations for the deep static water levels are (1) The zone is hydraulically separate from other producing wells within the area by a thick layer of impermeable volcanic rocks. It may be related to the anomalous aquifer in the Redmond area (Maddox' Zone "D"), or the highly productive deeper units penetrated in the deep City of Redmond wells. Static water levels within the City of Redmond wells may be higher than EC II-1 because of commingling of hydraulically separate aquifers in the city wells, or because the varying lithology and effects of wedging of sediments onto Cline Buttes have formed several isolated confined zones; (2) Cline Buttes may also provide a local anomaly like that of Forked Horn Butte. The fractured volcanic rocks which make up Cline Buttes may cause a localized groundwater depression.

The pump test performed at Eagle Crest Phase II indicated that groundwater impact will be immeasurable based on the data recovered. Figure 4, the graph of the eight hour pump test, shows the drawdown of the aquifer water level, in feet, in relation to the time since the pump was started, and the pumping rate at which the drawdown occurred. As is evident from the graph, even at 1,500 gpm drawdown flattened out within a few minutes, indicating an equilibrium of the pumping rate and maximum drawdown at that rate. The cone of depression formed from the pumping of EC II-1 intercepted PH-1, 35 feet away, at ≤ 0.1 foot. In PH-1, a graph of drawdown versus time at different pumping rates would be flat throughout the entire testing period. This indicates that no increased stress was placed on the aquifer 35 feet away from the pumping well, even when the well was pumped at 1,500 gpm. No boundary effects were indicated during the eight-hour pump test. This indicates that even though a probable permeability barrier exists at the contact between the Deschutes Formation and John Day Formation (Cline Buttes) and it is a short distance away from the pumping well, water availability/quantity was great enough that the presumed contact had no effect. It is evident from pump testing that, at a minimum, a pumping rate of 1,500 gpm in EC II-1, should not interfere or impact area domestic or agricultural wells based on evidence gathered from monitoring EC II-1 and PH-1.

ULTIMATE WATER DEMANDS

An estimate of water demands for the resort at maximum buildout was accomplished by determining the water needs of each public and irrigation use planned. Ultimate buildout is not expected for several years, so along with maximum buildout water demand, is an estimate for short term needs and uses. Needs and uses will be subject to market demand for the resort's facilities. No perennial surface water source exists on the flanks of Cline Buttes or within the site boundaries, so all water utilized must come from groundwater.

Combined water uses will include residential, commercial, golf courses, irrigated common areas, and fire protection. At ultimate buildout the following consumptive uses and estimated gallons per day (gpd) per use and gallons per minute (gpm) needed to cover each use are expected to be as follows:

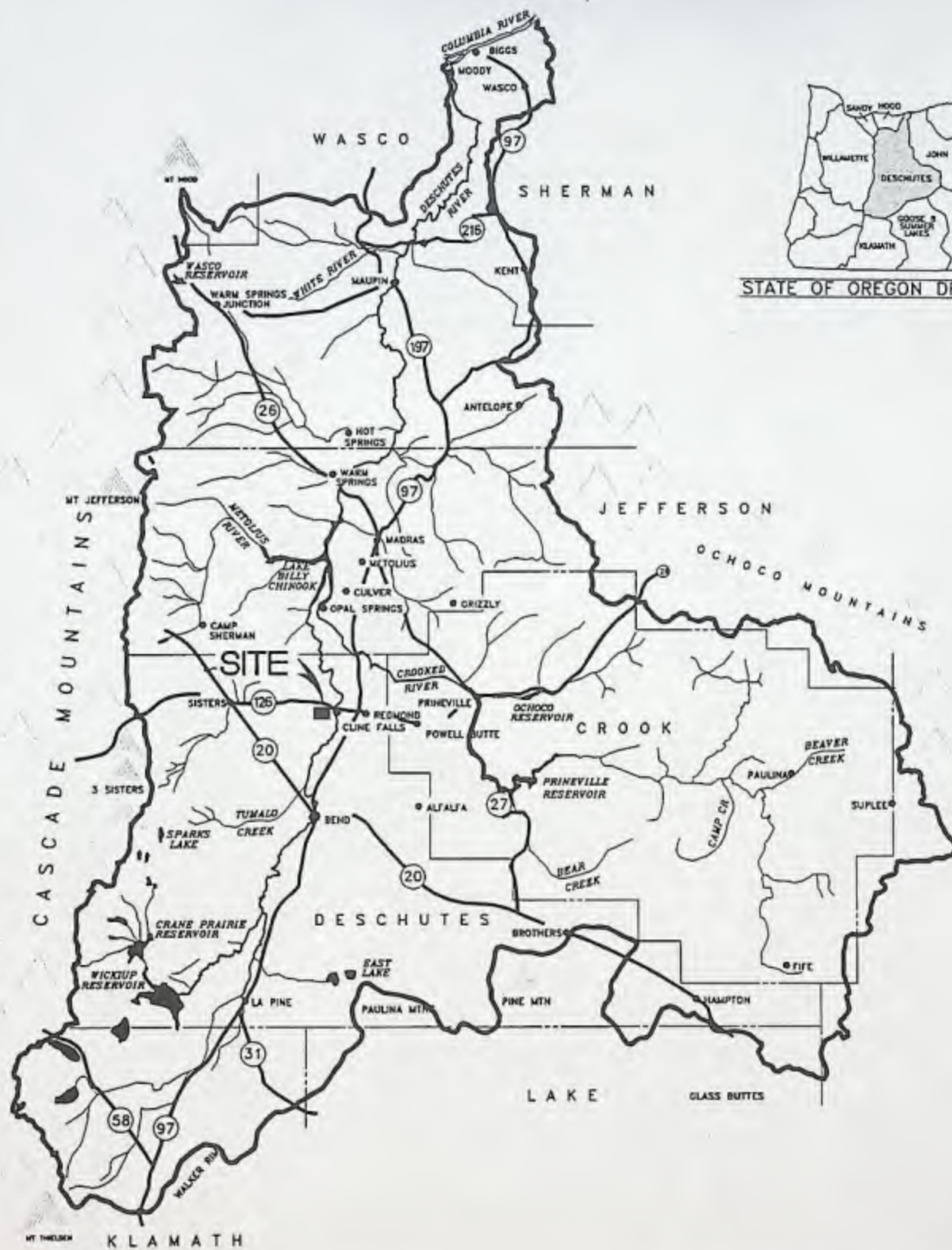
	<i>Interim</i>	<i>Ultimate</i>
Domestic Uses:		
450 Single Family Homes-1,250 gpd/home	±391 gpm	391 gpm
150 Townhomes-1,250 gpd/unit	±130 gpm	130 gpm
250 Hotel Rooms-180 gpd/room	± 31 gpm	31 gpm
Subtotal	±552 gpm	552 gpm
Commercial Uses:		
Golf Course Irrigation and Commercial (inc. 2 - 18 hole golf courses)	± 890 gpm	1,780 gpm
TOTAL	± 1,442 gpm	2,332 gpm

In the event of a fire, golf course irrigation water will be diverted directly to fire protection.

Initially, only one 18 hole golf course will be completed at the resort. Housing units and hotel rooms will be built as the resort develops. The estimate of water demand for start-up of the resort will be 980 gpm for the golf course and related commercial uses. This demand will increase as the resort incrementally develops.

REFERENCES

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STATE OF OREGON DRAINAGE BASINS



DATE
APR, 1992

PROJECT NO.
215 192

DAVID J. NEWTON ASSOC.
INCORPORATED



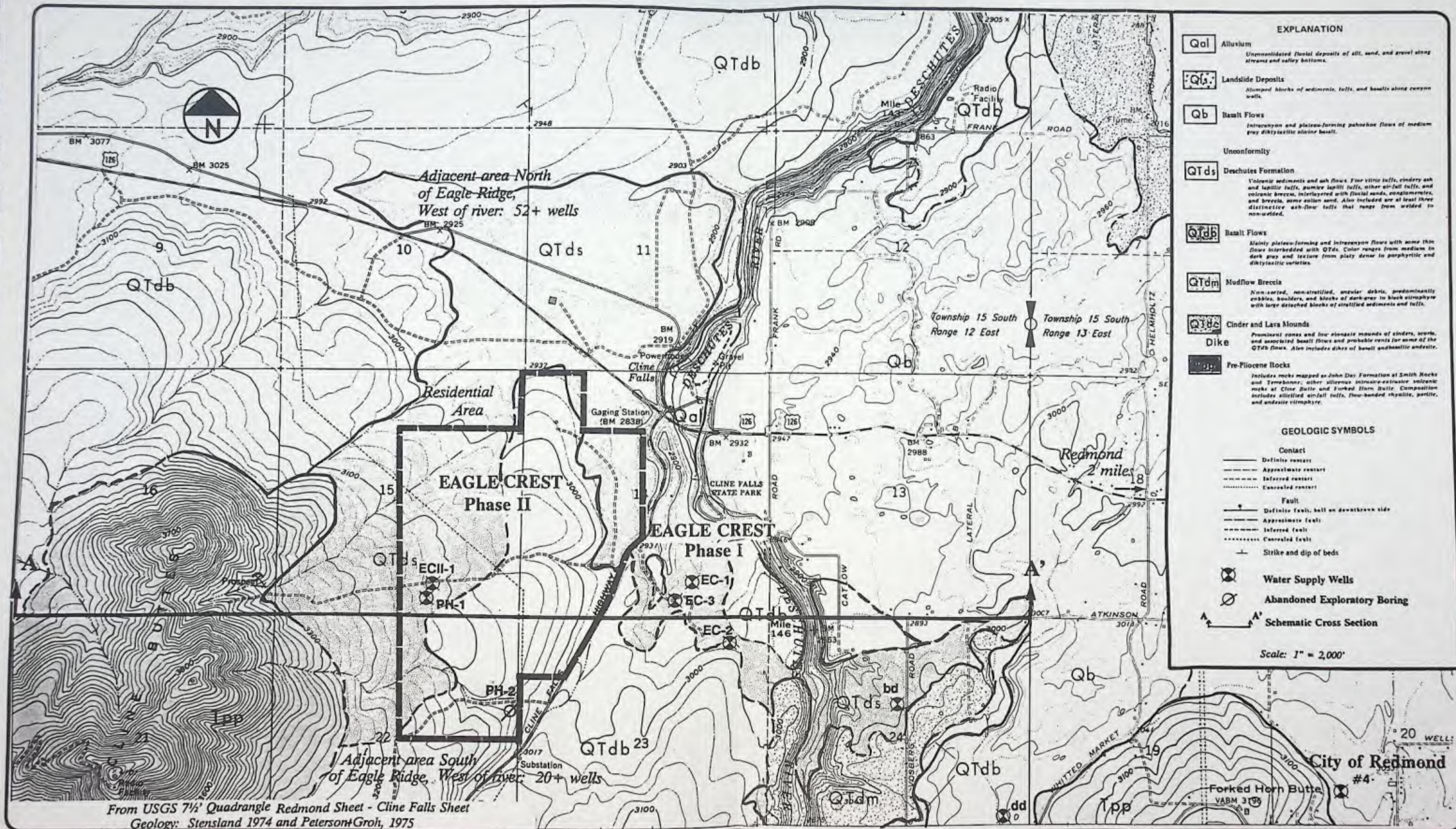
CIVIL & GEOLOGICAL ENGINEERING
1201 S.W. 12TH AVE., SUITE 400
PORTLAND, ORE. 97205 • 228-7718

VICINITY MAP

Eagle Crest Phase II
Deschutes County, Oregon

FIGURE

1



DATE
3/27/92

PROJECT NO.
215 192



DAVID J. NEWTON ASSOCIATES
INCORPORATED
CIVIL & GEOLOGICAL ENGINEERING

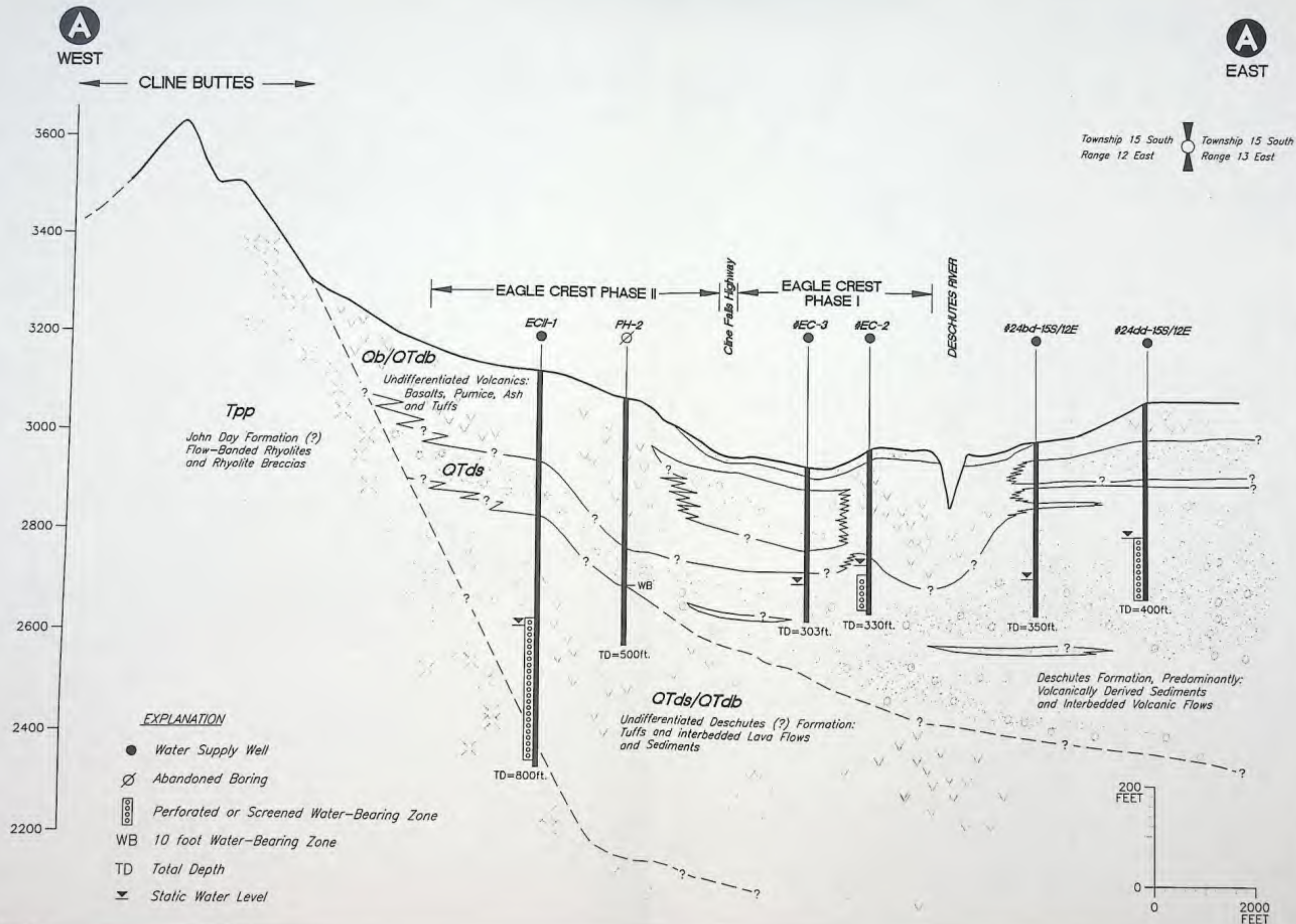
GEOLOGIC MAP OF THE REDMOND AREA, OREGON

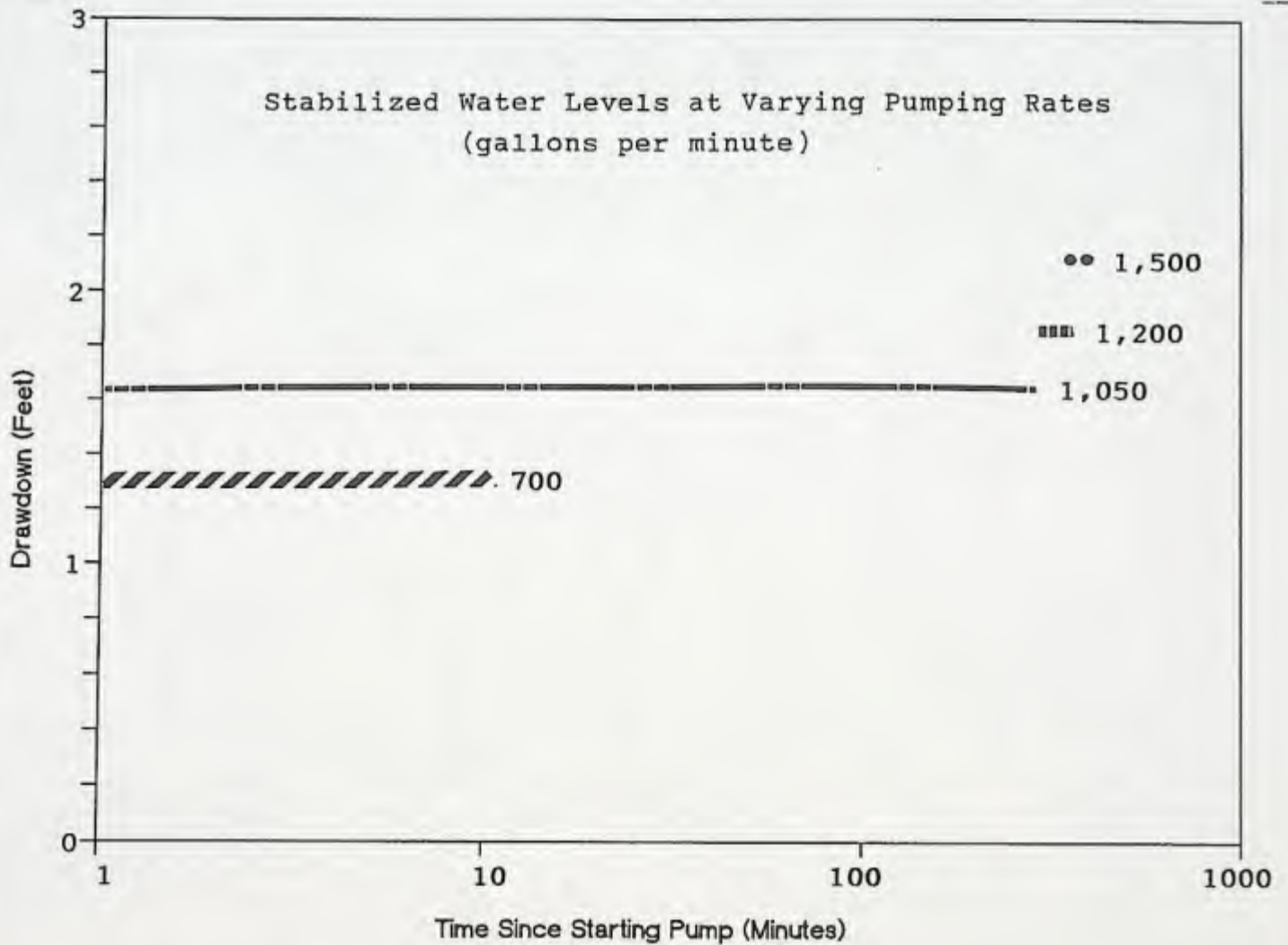
Eagle Crest Phase II - Deschutes County, Oregon

FIGURE

2







DATE APR, 1992	DAVID J. NEWTON ASSOC. INCORPORATED	PUMP TEST DATA	FIGURE 4
PROJECT NO. 215-192	CIVIL & GEOLOGICAL ENGINEERING 1201 S.W. 12TH AVE., SUITE 400 PORTLAND, ORE. 97205 • 228-7718	Eagle Crest Phase II Deschutes County, OR	

APPENDIX A

DRILLERS' LOGS AND WATER SAMPLE CHEMICAL ANALYSIS



first copy of this report
to be filed with the
WATER RESOURCES DEPARTMENT,
SALEM, OREGON, 97310
within 30 days from the date
of well completion.

WATER WELL REPORT

STATE OF OREGON

(Please type or print)

(Do not write above this line)

State Well No.

State Permit No.

EC-2

OWNER:

Name NEIL CHASE
Address 1004 Cline Falls Rd. Star Rt.
Redmond, Oregon 97756

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Aug. ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☐ Industrial ☐ Municipal ☐
Irrigation ☒ Test Well ☐ Other ☐

(5) CASING INSTALLED:

12 3/4" Diam. from 0 ft. to 25 ft. Gage 250
9" Diam. from 0 ft. to 330 ft. Gage 188
Diam. from ft. to ft. Gage

(6) PERFORATIONS:

Perforated? ☒ Yes ☐ No

Type of perforator used Factory & torch

Size of perforations 3 X 1/8 in. by 6 X 1/8 in.
430 perforations from 250 ft. to 330 ft.
perforations from ft. to ft.
perforations from ft. to ft.

SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name

Model No.

1. Slot size Set from ft. to ft.
2. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static level

Was a pump test made? ☐ Yes ☐ No If yes, by whom?

Yield: 200 gal./min. with 0 ft. drawdown after 4 hrs.

Artesian flow 0 g.p.m.

Temperature of water 53 Depth artesian flow encountered ft.

(9) CONSTRUCTION:

Well seal—Material used Portland Cement

Well sealed from land surface to 25 ft.

Diameter of well bore to bottom of seal 16 in.

Diameter of well bore below seal 15 in.

Number of sacks of cement used in well seal 21 sacks

How was cement grout placed?

Drive shoe used? ☐ Yes ☒ No Plugs Size: location ft.

Do strata contain unusable water? ☐ Yes ☒ No

Type of water depth of strata

Method of sealing strata off

Was well gravel packed? ☐ Yes ☒ No Size of gravel:

(10) LOCATION OF WELL:

County Deschutes Driller's well number

NE 1/4 NE 1/4 Section 23 T. 15S R. 12E W.M.

Bearing and distance from section or subdivision corner

Elev 7129.70
+12 7.700

(11) WATER LEVEL: Completed well.

Depth at which water was first found 307 ft.

Static level 307 ft. below land surface. Date 8-20-79

Artesian pressure 230 lbs. per square inch. Date

(12) WELL LOG: Diameter of well below casing 15 in.

Depth drilled 330 ft. Depth of completed well 330 ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated.
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
Boulders/cemented gravel	0	10	
Concl. hard gray lava	10	37	
Hard brwn lava	37	51	
Brwn lava fractured	51	52	
Red cinder w/seams of red lava	52	52	
Lava brwn fractured	52	57	
Firm yellow sandstone	57	97	
Hard blk lava	97	112	
Sandstone gray hard (graywacke)	112	122	
Hard blk lava	122	152	
Sandstone soft yellow	152	157	
Hard blk lava	157	181	
Firm brwn lava	181	212	
Clay, gravel, concl w/8	212	307	272
Brwn sandstone (firm)	307	330	

Work started 7-25-1979 Completed 8-20-1979

Date well drilling machine moved off of well 8-20-1979

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.

(Signed) James M. Cor Date 8-20-1979
(Drilling Machine Operator)

Drilling Machine Operator's License No. 1052

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is
true to the best of my knowledge and belief.

Name LEWIS & CLARK DRILLING CO., INC.

(Person, firm or corporation) (Type or print)
P. O. BOX 533 Redmond, Or. 97756

Address

(Signed) W. J. H. C.
(Water Well Contractor)

MAR 07 '92 08:19 W&H P. BEND

The original and first copy of this report
are to be filed with theWATER RESOURCES DEPARTMENT
SALEM, OREGON 97310
within 30 days from the date
of well completion.

WATER WELL REPORT

STATE OF OREGON

(Please type or print)

(Do not write above this line)

Eagle Crest Well No. 3 - From
Goldwell - NOT USED

State Well No.

State Permit No.

EC-3

OWNER:

Name NEIL CHASE

Address CHASE HILL RD.
REDMOND, OREGON 97750

(2) TYPE OF WORK (check):

New Well ☒ Deepening ☐ Reconditioning ☐ Abandon ☐

If abandonment, describe material and procedure in Item 12.

(3) TYPE OF WELL:

Rotary ☒ Driven ☐
Cable ☐ Jetted ☐
Dug ☐ Bored ☐

(4) PROPOSED USE (check):

Domestic ☒ Industrial ☐ Municipal ☐
Irrigation ☐ Test Well ☐ Other ☐

(5) CASING INSTALLED:

8" Diam. from 0-1 ft. to 19 ft. Gage 250
Diam. from ft. to ft. Gage
Diam. from ft. to ft. Gage

(6) PERFORATIONS:

Perforated? ☐ Yes ☒ No

Type of perforator used

Size of perforations in. by in.
perforations from ft. to ft.
perforations from ft. to ft.
perforations from ft. to ft.

(7) SCREENS:

Well screen installed? ☐ Yes ☒ No

Manufacturer's Name

Model No.

Diam. Slot size Set from ft. to ft.
Diam. Slot size Set from ft. to ft.

(8) WELL TESTS:

Drawdown is amount water level is
lowered below static levelWas a pump test made? ☐ Yes ☒ No If yes, by whom?

Yield: gal./min. with ft. drawdown after hrs.

AIRLIFT 50 GAL. MINUTE

Ball test gal./min. with 0 ft. drawdown after 1 hrs.

Artesian flow g.p.m.

Temperature of water 52 Depth artesian flow encountered ft.

9) CONSTRUCTION:

Well seal—Material used PORTLAND CEMENT

Well sealed from land surface to 19 ft.

Diameter of well bore to bottom of seal 12 in.

Diameter of well bore below seal 8 in.

Number of sacks of cement used in well seal 10 sacks

How was cement grout placed? pressure pumped

drive shoe used? ☐ Yes ☒ No Plugs Size location ft.y strata contain unusable water? ☐ Yes ☒ No

depth of strata

Method of sealing strata off

Was well gravel packed? ☐ Yes ☒ No Size of gravel:

Gravel placed from ft. to ft.

(10) LOCATION OF WELL: Front Well

County Deschutes Driller's well number

N.W. 34 Section 14 T. 15 R. 12 W.M.

Bearing and distance from section or subdivision corner

(11) WATER LEVEL: Completed well.

Depth at which water was first found 265 ft.

Static level 252 ft. below land surface. Date 3-13-80

Artesian pressure lbs. per square inch. Date

(12) WELL LOG: Diameter of well below casing 8"

Depth drilled 303 ft. Depth of completed well 303 ft.

Formation: Describe color, texture, grain size and structure of materials;
and show thickness and nature of each stratum and aquifer penetrated,
with at least one entry for each change of formation. Report each change in
position of Static Water Level and indicate principal water-bearing strata.

MATERIAL	From	To	SWL
OVERBURDEN	0	4	
BOULDER CONGL.	4	13	
BROWN LAVA	13	36	
RED SANDSTONE	36	61	
BROWN SANDSTONE	61	155	
RED & BLACK LAVA	155	205	
BROWN LAVA	205	211	
LAVA GRAVELS	211	223	
COARSE BLACK SAND	223	265	256
W/B FINE RED & BLACK SAND	265	303	

Work started 3-11 19 80 Completed 3-14 19 80

Date well drilling machine moved off of well 3-14 19 80

Drilling Machine Operator's Certification:

This well was constructed under my direct supervision.
Materials used and information reported above are true to my
best knowledge and belief.[Signed] [Signature] Date 3-14 19 80
(Drilling Machine Operator)

Drilling Machine Operator's License No. 1421

Water Well Contractor's Certification:

This well was drilled under my jurisdiction and this report is
true to the best of my knowledge and belief.

Name LEWIS & CLARK DRILLING INC.

(Person, firm or corporation) (Type or print)

Address P.O. BOX 583 REDMOND, OREGON 97750

[Signed] [Signature]

(Water Well Contractor)

Contractor's License No. 594 Date 3-15 19 80

STATE OF OREGON
WATER WELL REPORT
(as required by ORS 337.745)

EAGLE CREST Phase II -
EC II - 1

7

(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 ☐ Rehabilitation ☐ 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 sacks or pounds
Diameter	From	To	Material	From	To	
24	0	47	cement	0	47	80 sacks
17	47	800				

How was seal placed Method ☐ A ☐ B ☒ C ☐ D ☐ E

☐ Other

How fill placed from --- ft. to --- ft. Material ---

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

(6) CASING/LINER:

Casing	Diameter	From	To	Gauge	Steel				Plastic		Welded		Threaded	
					XXX	XX	X	---	---	---	---	---		
Casing	18	+1	47	.250	XXX	XX	X	---	---	---	---	---	---	---
Liner	14"	+2	800	.375	XXX	XX	X	---	---	---	---	---	---	---

Final location of sheet 800'

(7) PERFORATIONS/SCREENS:

☒ Perforations Method Factory perforated
☐ Screens Type --- Material ---

From	To	Slot size	Number	Diameter	Tele./pipe size	Casing	Liner
510	790	1/8X3	7000	14"	---	☐	☒

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

☐ Pump ☐ Bailor ☒ Air ☐ Flowing
Yield gal/min 800 (est.) Drawdown --- Drill stem at 750 Time 1 hr.

Temperature of water 52° 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 ---
Section 15 SW SE
Tax lot 1500 Lot --- Block --- Subdivision ---
Street Address of Well for nearest address N/A

(10) STATIC WATER LEVEL:

518 ft. below land surface Date 2/
Artesian pressure --- lb. per square inch. Date ---

(11) WATER BEARING ZONES:

Depth at which water was first found 540

From	To	Estimated Flow Rate
540	800	800

(12) WELL LOG:

Ground elevation ---

Material	From	To
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	240
Lava dark brown w/pumice	240	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 1/30/92 Completed 2/20/92

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my knowledge and belief.

Signed [Signature] WWC Number --- Date 2/4/92

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment of this well during the construction dates reported work performed during this time is in compliance with Oregon construction standards. This report is true to the best of my knowledge and belief.

Signed [Signature] WWC Number --- Date 2/4/92

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

(START CARD) # 36697

(1) OWNER: Well Number: PW #1
Name Eagle Ridge Development Corporation
Address Page 2
City _____ State _____ Zip _____

(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 _____ ft
Explosives used Yes ☐ No ☐ Type _____ Amount _____

HOLE		SEAL		Amount sacks or pounds
Diameter	From To	Material	From To	

How was seal placed Method ☐ A ☐ B ☐ C ☐ D ☐ E
☐ Other _____
Backfill placed from _____ ft to _____ ft Material _____
Gravel placed from _____ ft to _____ ft Size of gravel _____

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Lower					☐	☐	☐	☐

Final location of sheet _____

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

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

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

Temperature of water _____ 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
Section 15 SW 14 SE 15
Tax lot 1500 Lot _____ Block _____ Subdivision _____
Street Address of Well for nearest address N/A

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

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

From	To	Estimated Flow Rate

(12) WELL LOG: Ground elevation _____

Material	From	To
Andacite light gray w/pumice	620	643
Andacite brown fractured	645	65
Andacite brown hard	655	670
Andacite gray w/brown med.	670	691
Andacite gray hard	691	710
Andacite brown w/pumice interbed	710	733
Andacite brown & red fractured	733	740
Andacite brown very hard	740	761
Pumice white	761	776
Andacite gray and brown	776	806

Date started 1/30/92 Completed 2/20/92

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my knowledge and belief.

Signed Byron B. Stata WWC Number _____ Date 3/4/92

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment of this well during the construction dates reported. Work performed during this time is in compliance with Oregon construction standards. This report is true to the best of my knowledge and belief.

Signed [Signature] WWC Number _____ Date 3/4/92

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

000 000 000 000 000 000 000 000

PILOT HOLE #1-PH
EAGLE CREST
PHASE II
(START CARD) # 34267

(1) OWNER: Well Number: _____
Name Eagle Ridge Development
Address P.O. Box 1215
City Reardan 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) BOREHOLE CONSTRUCTION:
Special Construction approval Yes ☐ No ☒ Depth of Completed Well 800 ft.
Explosives used ☐ Yes ☒ No ☐ Type _____ Amount _____

HOLE	From	To	Material	From	To	Amount
			SEAL			sacks or pounds
13	0	50	cement	18	50	60
10	50	100	cement-Bent	0	18	15
8	100	800	bentonite	90	100	

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☒ Other bentonite dry in top 18'
Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from _____ ft. to _____ ft. Size of gravel _____

Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing	8"	42	98'	250	XX		XX
Liner	6"	0	800				

Final location of shoe(s) 800

(7) PERFORATIONS/SCREENS:
☒ Perforations Method air pump
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
600	620	1X1/8	400	6"			XX
700	800	1X1/8	2000	6"			XX

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

☐ Pump ☐ Bailor ☐ Air ☐ Flowing ☐ Artesian
Yield gal/min Drawdown Drill stem at _____ Time _____

Temperature of water 54 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 _____ Latitude _____ Longitude _____
Township 15S Nor S. Range 12E E or W. WM
Section 28 NE 1/4 NE 1/4
Tax Lot _____ Lot _____ Block _____ Subdivision _____

Street Address of Well (or nearest address) _____
Cline Falls

(10) STATIC WATER LEVEL: _____ ft. below land surface. Date 10/11/91
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES: _____
Depth at which water was first found 608 (A) (B) (C) (D) (E) (F) (G) (H) (I) (J) (K) (L) (M) (N) (O) (P) (Q) (R) (S) (T) (U) (V) (W) (X) (Y) (Z)

From	To	Estimated Flow Rate	SV
608	615		
720	735		

(12) WELL LOG: Ground elevation _____

Material	From	To	SV
dirt	0	2	2.8
broken rock	2	12	3.2
sand black coarse dry	12	25	3.5
broken rock red & grey	25	36	3.8
Rock harder	36	42	4.2
sandstone soft brown	42	48	4.5
lava porous grey & brown	48	55	4.8
broken lava red & grey	55	63	5.2
lava harder red & grey	63	132	5.5
basalt grey hard	132	160	5.8
lava red med	160	185	6.2
lava red w/white pumice	185	203	6.5
multi colored lava brn/red/gr	203	210	6.8
broken lava red/brown	310	375	7.2
rock brn med	375	392	7.5
rock grey w/some pumice	392	400	7.8
rock grey and white	400	435	8.2
rock brn/grey/white	435	442	8.5
basalt grey hard	442	461	8.8
andacite grey/brn hard	461	608	9.2
cinders or pumice	608	615	9.5
quartzite/andacite wh/red	615	720	9.8
brown andacite weathered	720	735	10.2

Date started 9/18/91 Completed 10/11/91

(unbonded) Water Well Constructor Certification:
I certify that the work I performed on the construction, alteration, abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my knowledge and belief.
Signed _____ WWC Number 125
Date 10/24/91

(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 work performed during this time is in compliance with Oregon construction standards. This report is true to the best of my knowledge and belief.
Signed _____ WWC Number 72
Date 10/24/91

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

(START CARD) / 34267

(1) OWNER: Eagle Ridge Development Well Number: PAGE 2
Name
Address
City State Zip

(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 _____ ft
Explosives used Yes No Type _____ Amount _____

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	

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

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

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of $Sh(e^{(c)})$

(7) PERFORATIONS/SCREENS:

☐ Perforated ☒ Method _____
☐ Screens Type _____ Material _____

[illegible]

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

☐ Pump	☐ Bailer	☐ Air	☐ Flowing Artesian
Yield gal/min	Drawdown	Drill stem at	Time
			1 hr.

Temperature of water _____ 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 ☐ Murky ☐ Odor ☐ Colored ☐ Other _____
 Depth of strata _____

(9) LOCATION OF WELL by legal description:

County _____ Latitude _____ Longitude _____
Township _____ N or S. Range _____ E or W. W.M.
Section _____ ¼ _____ ¼
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) _____

(10) STATIC WATER LEVEL:

_____ ft. below land surface. _____ Date _____
Artesian pressure _____ lb. per square inch. _____ Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found

From	To	Estimated Flow Rate	SW

(12) WELL LOG:

Ground elevation

[illegible]

Date started 9/18/91 Completed 10/11/91

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, abandonment of this well is in compliance with Oregon well construction standards. Materials used and information reported above are true to my knowledge and belief.

Signed D. G. M. S. H. A. L. WWC Number 102
Date 10/24/91

(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. 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.

belief. WWC Number 223
Signed _____ Date 11/24/11



Century Testing
Laboratories, Inc.

EAGLE RIDGE PILOT WELL #1
LOCATED AT LAKE NEAR FAIRWAY #7

Mail: Post Office Box 1174
Bend, Oregon 97709
503-382-6432

LABORATORY ANALYSIS

W & H PACIFIC
155 REVERE
BEND, OR 97701

LAB SAMPLE NO.: 8512
SAMPLE DESCRIPT.: WELL HEAD
MATRIX: WATER
DATE SUBMITTED: 10/31/91
DATE ANALYZED: 10/31-11/13/91
DISCARD DATE: 12/31/91
COLLECTED BY: D. WILLIAMS

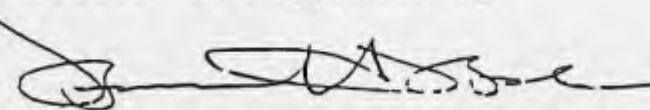
ANALYSIS METHOD NUMBER	CONSTITUENT	SAMPLE CONC. *	METHOD DETECTION LIMIT	UNITS	PERCENT RECOVERY**	P.D.S.
EPA 7060	ARSENIC	0.0105	0.0015	mg/l	97%	605 (P)
EPA 310.1	BICARBONATE	74.0	0.5	mg/l	105%	
ICP 6010	CALCIUM	7.67	0.02	mg/l	103%	
ICP 6010	MAGNESIUM	7.30	0.025	mg/l	117%	
EPA 7430	LITHIUM	N.D.	0.02	mg/l	104%	
EPA 353.3	NITRATE NITROGEN	0.44	0.01	mg/l	105%	10 (P)
EPA 365.2	PHOSPHATE	0.154	0.008	mg/l	92%	
SM 425C	SILICA	28.0	0.32	mg/l	98%	
ICP 6010	SODIUM	12.55	0.2	mg/l	100%	150 (S) - 2
EPA 375.4	SULFATE	3.0	0.25	mg/l	90%	250 (S)

*N.D. means "not detected."

**Percent Recovery values are within established control limits.

CENTURY TESTING LABORATORIES, INC.

Reviewed and approved by:


Bruce E. Bale
Quality Assurance Manager

11/15/91

Excellent Quality

Tom

FY1 - Well #1 E.R.

h

PILOT WELL #2
PH-2

9809C 3.4+

Form A (890-8-77)

Application No. G-12905

NOTICE OF BEGINNING OF CONSTRUCTION

I, EAGLE RIDGE DEVELOPMENT CORPORATION, the holder of Permit No. G-11762
to appropriate the public waters of the state of Oregon, began the actual construction of the works described
therein on the 18TH day of SEPTEMBER, 1991

Remarks: TWO WELLS HAVE BEEN COMPLETED TO A DEPTH OF 800'. 300HP & 50 HP PUMPS HAVE
BEEN INSTALLED AND DESIGNS HAVE BEEN COMPLETED AND APPROVED FOR NEARLY 1 MILE OF PIPELINE
acquired for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction as
AND A 300,000 GALLON RESERVOIR.
authorized by your permit.

IN WITNESS WHEREOF, I have hereunto set my hand this 6TH day of JUNE, 1995

William D. Lyber
(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.

SP-35587-690

OK
DSM

OR. WATER RES.
158 12th ST SE.
SALEM, OR
97310-0210

FAX#
378 8130

RECEIVED

JUN - 9 1995
 WATER RESOURCES DEPT.
 SALEM, OREGON

Form A (990-9-77)

Application No. G-12905

NOTICE OF BEGINNING OF CONSTRUCTION

I, EAGLE RIDGE DEVELOPMENT CORPORATION, the holder of Permit No. G-11762

to appropriate the public waters of the state of Oregon, began the actual construction of the works described therein on the 18TH day of SEPTEMBER, 1991.

Remarks: TWO WELLS HAVE BEEN COMPLETED TO A DEPTH OF 300'. 300HP & 50 HP PUMPS HAVE

BEEN INSTALLED AND DESIGNS HAVE BEEN COMPLETED AND APPROVED FOR NEARLY 1 MILE OF PIPELINE
required for the water system up to the date of this statement, and any additional information which shows a substantial beginning of construction as
AND A 300,000 GALLON RESERVOIR.

authorized by your permit.

IN WITNESS WHEREOF, I have hereunto set my hand this 6TH day of JUNE, 1995.

William D. Dyke
 (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.

SP-35087-690

OR. WATER RES.
 158 12TH ST SE.
 SALEM, OR
 97310-0210

FAX#
 378 8130

STATE OF OREGON
WATER RESOURCES DEPARTMENT

INTEROFFICE MEMO

To: FILE G- 12905

Date: May 2, 1995

From: MICHAEL ZWART

Subject: GROUNDWATER PERMIT CONDITION

This Application File contains a condition in the permit issued which requires static water levels to be measured. Please contact the manager of the Groundwater and Hydrology Section prior to certificate issuance. Staff there will recommend whether any changes should be made to the final language of such conditions in the certificate.

ACTION
CODE

ORIGINAL

002783

AGENCY VOUCHER NO.

DATE 07-28-94

VENDOR NUMBER

A69000

PAYEE AND ADDRESS

EAGLE RIDGE DEVELOPMENT CORP.

AUDITED BY

WATER RESOURCES
158 12 TH ST NE
SALEM OR 97310-0210

E

03-00-0

50. 00

TOTAL

\$50.00

PAYMENT OF: INVOICE

REFERENCE 002783

50.0

NET PAID

\$50.00

MESSAGE: REVENUE REFUND G-12905

ACCOUNT CODING: ASY 59000 BCR 136 INV				TC 40	TD 940728	REF 002783	
DESCRIPTION	PCD	PROJECT	FUND	BI	COST CENTER	ACCOUNT	AMOUNT
EAGLE RIDGE DEVELOPM		082300	425	5	06 03 00 01		50.0

Check mailed 8/1/49

NOTICE TO VENDOR

REMITTANCE ADVICE

Enclosed is warrant in full payment of claim listed above. Please refer to Voucher Number indicated if you have any question regarding this payment.

FOR STATE AGENCY USE ONLY

This certifies that the materials, services, cash advanced, or expenses covered by this claim have been furnished or expended on behalf of the State of Oregon. The provision for payment is made by law and appropriate obligation or expenditure is authorized by law and the claim otherwise satisfies the requirements as provided ORS 293.295. This claim has been approved for payment in the above amount.

By

By



STATE OF OREGON

DEPT OF ADMINISTRATIVE SERVICES
TO THE STATE TREASURER, SALEM, OREGON 97310

98-10
1232

WARRANT No.
0001467060

AGENCY #
69000

ORIGINATING AGENCY
WATER RESOURCES

VOUCHER
002783

TREASURY FUND
401

ISSUE DATE
07 / 29 / 1994

AMOUNT
\$50.00

PAY EXACTLY *****50 Dollars and 00 Cents

VOID AFTER 2 YEARS FROM DATE OF ISSUE

PAY TO
THE
ORDER
OF

EAGLE RIDGE DEVELOPMENT CORP.

John J. Ralston

AUTHORIZED SIGNATURE



February 29, 1996

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND OR 97756

RECEIVED

APR 26 1996

WATER RESOURCES DEPT.
SALEM, OREGON

RE: Required Well Water Level Report for Permit G-11762

Our records indicate that you are the holder of groundwater permit G-11762. If you are no longer the holder of this permit or no longer have an interest in it, please contact our department.

This permit contains a provision which requires the permittee to cause the static water level in the well(s) to be measured and reported to this agency annually. Consulting your permit will show the required times for measuring and reporting, as well as a list of persons eligible to make the measurements.

Please use this letter for your reply, placing any additional information on the back side if necessary. We recommend you keep a cop of this measurement report for your records.

MEASUREMENT REPORT

Well Name or Number (if any): Eagle Crest II Well #6

Application and Permit number: Application #: G-12905 Permit #: G-11762

Person Making Measurement: Thomas A. Walker, P.E., C.W.R.E.

Description of Measuring Point: *± 2' 5" feet above/below land surface

Static Water Level: 522.0 feet below land surface

Length of Time Well was Idle Before Measurement: Approximately one month

Calculation/Comments: * The measurement point is the top of the well casing.

I hereby certify that, to the best of my ability, the information on this report is accurate and, at the time of measurement, representative of the static water level in the aquifer.

Signature of Person Making Measurement: Thomas A. Walker

Organization: W&H Pacific, Inc.

Thank you for your attention to this matter. If you have any questions about this notice, please call the Groundwater/Hydrology Section of the department at 378-8455 ext. 207.

TO: FISCAL SECTION

FROM:

Don BAER
Authorized Examiner

SUBJECT: Request for transfer of fees or refund check

Please transfer \$ _____ Receipt _____ from file
_____ to file _____ for:
_____ Examination fee
_____ Permit Recording Fee

Please refund \$ 50⁰⁰ to EAGLE RIDGE Development Corp.
file G-12905, receipt 8630. These funds are
refunded due to:

_____ Application rejected
_____ Application withdrawn
☒ Excess fees collected for application/PON
_____ Payment of PON
_____ Protest Filing Fees
_____ Other: _____

8/4/2004

JUL 19 1994

EAGLE RIDGE
PO BOX 1215
Redmond 97756

COPY CHECK-OFF SHEET FOR TECHNICAL REVIEWS

CC: FILE # 6-12905

WATERWATCH

ODF&W

WATERMASTER # 11

REGIONAL MANAGER -

OTHER ADDRESSES:

- 1) CWRE
- 2) BALL, JANIK, & NOVAK
- 3) REP. CLARNO

C.T. THOMAS 4-29-93

VIRGIN KAPPER 5-5-93

SET UP @ 7-1-93 TES

CASEWORKER

STOOK

ORIGINAL TO APPLICANT

Application No. E-12905

REC'D
MAY 6 1992

State of Oregon
WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Ground Water

Applicant(s) Eagle Ridge Development Corporation
(Please print or type - use dark ink)

Mailing Address: P.O. Box 1215
Redmond, Oregon 97756 (503) 923-0807
City State Zip Daytime Phone No.

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

1. **THE DEVELOPMENT** (number of wells, tile lines, infiltration galleries, etc.): The development
is expected to include the expansion of use for two existing wells and one proposed
well.

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

Distance from development to stream: 2,000 feet minimum

Elevation difference between streambed and development: + 300 feet

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

Existing Well #2 and Proposed Well #3: 17"
Diameter of well: Existing Well #1: 8" Depth in feet: 800 feet

Type and size of well casing: 14" casing/6" casing No. of feet: 800 feet

Estimated depth to water: 520 feet

Type of access port or measuring device: Air tube and standard casing vent.

Wells to be drilled by: Staco Well Services, Inc.

Address: 220 Academy Street Mt. Angel, Oregon 97362

If the water well is flowing artesian, describe your water control and conservation works: Based
upon completion of wells on this property and review of well logs in the vicinity,
artesian flow is not expected.

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 4.01 cubic feet per
second, OR 1,800 gallons per minute. If water is to be used from more than one
ground water source, give the quantity of water from each: Existing well number one: .45 cfs,
Existing well number two: 1.78 cfs, and proposed well number three: 1.78 cfs.

3. **INTENDED USE(s) OF WATER:** Quasi-Municipal

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

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

If for MUNICIPAL OR QUASI-MUNICIPAL use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.) The proposed domestic water supply system will serve an estimated 900 dwelling units in the proposed expansion of the Eagle Crest Resort and 42 dwellings in the existing Cline Falls Oasis subdivision, provide a reliable backup supply for the + 420 dwelling units at the existing Eagle Crest Resort, and serve recreation, commercial landscape irrigation, fire protection, and construction uses.

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

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

Irrigation _____

Other (describe) _____

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

The system is ultimately expected to include two 250 HP line shaft turbine well pumps, one 50 HP submersible well pump, a + 300,000 gallon storage reservoir, approximately 50,000 lineal feet of 6", 8", 10", and 12" distribution main, and the associated valves, hydrants, and appurtenances.

5. **PROJECT SCHEDULE:** *(List month and year)*

Proposed date construction work will begin April, 1992

Proposed date construction work will be completed October, 1997

Proposed date water use will be completed October, 2002

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

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

____ Applicant ☒ CWRE _____ Other (Identify in REMARKS section)

- b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

____ Applicant ☒ CWRE _____ Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? NO. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

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

REMARKS: _____

Please reference the attached application map for a listing of all land owners and their mailing address.

NOTE: The permit, when issued, is for the beneficial use of water without waste. 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. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

William D. Lyche
Signature of Applicant

April 28, 1992
Date

Signature of Co-Applicant, if any

Date

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

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

_____, 19____.

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

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 4th day of May, 1992, at 8:0 o'clock, AM.

APPLICATION NO: _____

April 19, 1993

EAGLE RIDGE DEVELOPMENT CORP.
PO BOX 1215
REDMOND, OR 97756

REFERENCE FILE: G-12905

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

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

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

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

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

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

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

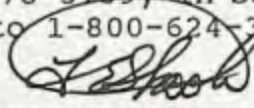
Copies of the Report of Technical Review will be distributed to all persons who have filed comments or otherwise expressed an interest in the water use proposed in your application. Interested parties must also submit their objections within the prescribed objection period. Those objections must allege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

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

All evidence and objections must be received by our Salem office no later than 5:00 p.m. on or before JUNE 30, 1993, or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

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

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

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

THOMAS E. SHOOK

Enclosures

CC: WATERWATCH OF OREGON
WATERMASTER, DISTRICT 5
W&H PACIFIC
BALL, JANIK, AND NOVAK
REPRESENTATIVE CLARNO

Report Date: APRIL 19, 1993

OREGON WATER RESOURCES DEPARTMENT

REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD

N.E., SALEM, OREGON, 97310, ON OR BEFORE 5 P.M., JUNE 30, 1993.

1. APPLICATION FILE NUMBER - G-12905
2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756
DESCHUTES Co. 503-923-0807

Date application received for filing and/or tentative date of priority: 5/ 4/1992

SOURCE: THREE WELLS WITHIN THE DESCHUTES RIVER BASIN

Purpose and/or use: GROUP DOMESTIC FOR 900 FAMILIES INCLUDING THE IRRIGATION OF LAWN AND NONCOMMERCIAL GARDEN OF NOT TO EXCEED 1/2 ACRE PER UNIT

Flow: 4.01 CUBIC FOOT PER SECOND (CFS)

Point of Appropriation Location:

T 15 S, R 12 E, SEC. 14, SW 1/4-SW 1/4, SEC. 15, SW 1/4 SE 1/4

Place of use:

E 1/2 SW 1/4	N 1/2 NE 1/4
SE 1/4	SE 1/4 NE 1/4
SECTION 10	SE 1/4 SE 1/4
SW 1/4 SW 1/4	SECTION 22
SECTION 11	ALL
SW 1/4 SW 1/4	SECTION 23
SECTION 13	W 1/2 W 1/2
W 1/2	SECTION 24
SE 1/4	NW 1/4 NE 1/4
SECTION 14	N 1/2 NW 1/4
E 1/2	SECTION 26
SECTION 15	NE 1/4 NE 1/4
	SECTION 27

T 15 S, R 12 E, W.M.

GROUNDWATER AVAILABILITY

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

Pursuant to OAR 690-09-040, the proposed groundwater withdrawal will not have the potential to cause substantial interference with surface water.

In addition, the Groundwater/Hydrology Section has reported the water is likely to be available to supply the proposed use.

CONFLICTS WITH OTHER WATER RIGHTS:

There are existing rights from this point of appropriation. See permit conditions.

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

REPORT CONCLUSIONS:

Water in the amount of 3 CFS is likely available for 12 months of the 12 months normal period of use. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

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

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

PROPOSED PERMIT CONDITIONS

Application: G-12905

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

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: YEAR ROUND
3. Rate of use: 3 CFS
4. A regulating device shall be installed pursuant to ORS 540-310.
5. A measuring device, installation and reporting are required pursuant to ORS 540-435.
6. The PERMIT HOLDER shall obtain a static water-level measurement for each well during MARCH of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the PERMIT HOLDER shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the PERMIT HOLDER'S or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The PERMIT HOLDER shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit.

7. Water use development requirements:
 - A) Begin construction by (one year from issuance of permit).
 - B) Complete construction by October 1, 1995.
 - C) Completely apply the water to beneficial use by October 1, 1996.
8. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
9. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
10. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
11. The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times. When required by the department, the permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn. The use of water shall be limited when it interferes with any prior surface or ground water rights.
12. Pre-application discussions between Deschutes County officials and the applicant suggest that land use approval will be obtained. No water may be appropriated under the terms of this permit until the a proper land use statement has been filed with the Water Resources Department.
13. 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.

For existing rights on point of appropriation:

14. In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

For existing rights on place of use:

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

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

**PLEASE DELIVER THE FOLLOWING MATERIAL
AS SOON AS POSSIBLE**

Transmission Date: 4/26/94

TO: Dee Reed Marbest

FAX No.: 1-503-378-8130

FROM: KARL G. ANUTA

FAX No.: (503) 228-6551

NUMBER OF PAGES, INCLUDING THIS PAGE: 3

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LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

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735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

April 26, 1994

VIA FAX & REGULAR MAIL

Steve Sanders
Assistant Attorney General
Counsel to the
Oregon Water Resources Commission
100 Justice Building
Salem, OR 97310

RE: Eagle Crest/Eagle Ridge Water Use Permit

Dear Mr. Sanders:

As you know, I represent ARLU-DeCo and FCB in the Eagle Crest water permit proceedings. As I indicated, my clients are very concerned about certain representations made to the Deschutes County Commissioners about the water use permit decision of the Water Resources Commission (WRC).

Thank you for verifying the Commission's legal position on this matter. As I understand the WRC position:

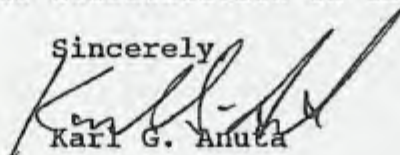
1. Eagle Crest does not currently have a water use permit for Phase II domestic use;
2. The Commission decided on 4/20/94 that certain special conditions needed to be placed on all Eagle Crest water use permits, both Phase I and II;
3. The WRC decision on 4/20/94 was that if Eagle Crest submits written authorization from the Phase I Homeowners Association, agreeing that all Phase I water use permits will be reopened and conditioned the same as Phase II permits, then the agency will issue Eagle Crest a Phase II domestic use permit. Until such a written verification is received, Eagle Crest does not have a water use permit for the expansion;
4. If no written permission is received, the Eagle Crest issue will be back before the Commission for a decision on whether to issue, deny or send to contested case this application; and

Steve Sanders
Page 2
April 26, 1994

5. The Commission did not make a finding that Eagle Crest's Phase II domestic water use permit would have "no impact" on the Deschutes River. The Commission only decided that the Phase II domestic use permit would not create "substantial" short term interference (as defined by Division 9 of the agency rules) between ground and surface water. Under Division 9, only interference that occurs within 25 days of pumping is considered. Long term cumulative impacts are not considered under Division 9.

Thank you again for your clarification on these issues.

Sincerely



Karl G. Anuta

KGA

cc: Clients, via FAX & mail
R. Marbut, WRD, via FAX
R. Whitman, Eagle Crest, via mail
Dale. Van Valkenburg, Deschutes County Planning, via FAX
Deschutes County Commissioners,
for entry in Land Use appeal record, via FAX
S. Burchfield, ODFW, via FAX
K. Russell, WaterWatch, via FAX



C12905

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APR 28 1994

WATER RESOURCES DEPT.
SALEM, OREGON

April 22, 1994

Mr. Steve Brown
Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

Re: Eagle Ridge Development Corporation
Pending Groundwater Appropriation Application
526-0105

Dear Steve:

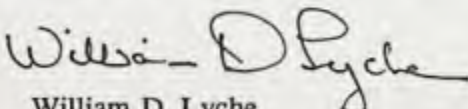
Eagle Crest hopefully is near the end of a three year process to obtain a water right permit for our proposed resort expansion project. Your significant assistance over this three year period is greatly appreciated.

The past three years have demonstrated the complexity of your job and the diverse interests and obligations that you must address. We know our application, analysis, and studies were technically sound, but now realize the technical aspects are only one of the many components you must consider.

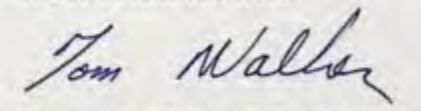
We are extremely pleased with recent action by the Water Resources Commission and clearly recognize we could not have gotten to the Commission without your significant assistance. Again, we appreciate your efforts.

Respectfully yours,

EAGLE RIDGE DEVELOPMENT CORPORATION


William D. Lyche

W&H PACIFIC, INC.


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

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

6-12905
cc: WRC
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APR 22 1994
WATER RESOURCES DEPT. PORTLAND, OREGON 97204
SALEM, OREGON
STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

April 20, 1994

Richard Whitman
Ball Janik & Novak
1100 One Main Place
101 SW Main Street
Portland, OR 97204

RE: Eagle Crest Water Use Permit - Phase II

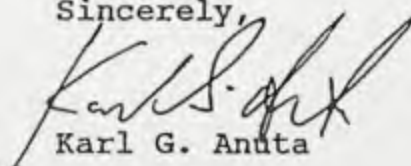
Dear Richard:

ARLU-DeCo and FCB were pleased to hear you and your client make a commitment to the Water Resources Commissioners, to include the Phase II well permit conditions in the Covenants and Restrictions for all of the Phase II properties. This type of notice to potential property owners is critical to preventing significant enforcement problems in the future.

Would you please send me a copy of the Covenants and Restrictions, with the appropriate conditions, when they are completed. I suspect that the Commissioners might also want to see them, so that the Agency has a set available should an enforcement problem arise.

Thank you for your professional courtesies.

Sincerely,


Karl G. Anuta

KGA

cc: WRC Commissioners, c/o WRD
Clients
Martha Pagel

SENDER:

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- Print your name and address on the reverse of this form so that we can return this card to you.
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 2. ☐ Restricted Delivery
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3. Article Addressed to:

KARL G. ANUTA, ESQ.
LARRY N SOKOL & ASSOC., P.C.
735 SW FIRST AVENUE
PORTLAND, OR 97204

4a. Article Number

PS6374

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

6/13/94

5. Signature (Addressee)

Carl G. Anuta

6. Signature (Agent)**8. Addressee's Address (Only if requested and fee is paid)**

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158 12TH STREET NE
SALEM, OH 97310 •

Attn: Danene C.

April 4, 1994

Karl G. Anuta, Esq.
Larry N. Sokol & Associates, P.C.
735 S.W. First Avenue
Portland, OR 97204

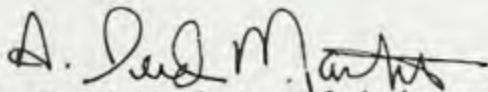
RE: Agenda Item L, April 8, 1994
Water Resources Commission Meeting

Dear Mr. Anuta:

Item L has been deleted from the April 8, 1994, Water Resources Commission Meeting. The Director will recommend to the Commission that Application Number G-12905, in the name of Eagle Ridge Development Corporation, be considered at a special meeting of the Commission scheduled for April 20, 1994, at 11:00 a.m. This meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc

cc: Richard Whitman, Esq.
Friends of Cline Butte
ARLU DeCo

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Salem, OR 97310-0210
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FAX (503) 378-8130

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3. Article Addressed to:

WILLIAM BOYER, CHAIRMAN
ARLU DECO
17979 JORDAN ROAD
SISTERS, OR 97759

4a. Article Number

PS6372

4b. Service Type

- ☐ Registered ☐ Insured
- ☐ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

8-7-94

5. Signature (Addressee)

William Boyer

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

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158 12TH STREET NE
SALT LAKE CITY UT 84119

Attn: Paulene C.

April 4, 1994

William Boyer, Chairman
ARLU DeCo
17979 Jordan Road
Sisters, OR 97759

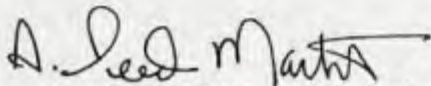
RE: Agenda Item L, April 8, 1994
Water Resources Commission Meeting

Dear Mr. Boyer:

Item L has been deleted from the April 8, 1994, Water Resources Commission Meeting. The Director will recommend to the Commission that Application Number G-12905, in the name of Eagle Ridge Development Corporation, be considered at a special meeting of the Commission scheduled for April 20, 1994, at 11:00 a.m. This meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc

cc: Richard Whitman, Esq.
Friends of Cline Butte
Karl G. Anuta, Esq.

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

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- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

RICHARD WHITMAN, ESQ.
BALL, JANIK, & NOVACK
1100 ONE MAIN PLACE
101 SW MAIN STREET
PORTLAND, OR 97204

4a. Article Number

PSL373

4b. Service Type

- ☐ Registered ☐ Insured
- ☐ Certified ☐ COD
- ☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery

4-6-94

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

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158 12TH STREET NE
SALEM, OR 97310

Attn: Darlene C.

April 4, 1994

Richard Whitman, Esq.
Ball, Janik & Novack
1100 One Main Place
101 S.W. Main Street
Portland, OR 97204

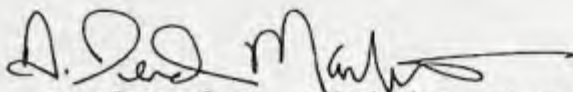
RE: Agenda Item L, April 8, 1994
Water Resources Commission Meeting

Dear Mr. Whitman:

Item L has been deleted from the April 8, 1994, Water Resources Commission Meeting. The Director will recommend to the Commission that Application Number G-12905, in the name of Eagle Ridge Development Corporation, be considered at a special meeting of the Commission scheduled for April 20, 1994, at 11:00 a.m. This meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc

cc: Friends of Cline Butte
Karl G. Anuta, Esq.
ARLU DeCo

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

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
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I also wish to receive the following services (for an extra fee):

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2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

FRIENDS OF CLINE BUTTE
C/O SANDRA SANDS
3450 SW 81ST STREET
REDMOND, OR 97756

4a. Article Number

PS6375

4b. Service Type

- | | |
|---|---|
| ☐ Registered | ☐ Insured |
| ☒ Certified | ☐ COD |
| ☐ Express Mail | ☐ Return Receipt for Merchandise |

7. Date of Delivery

4-13-94

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

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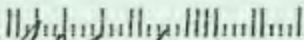


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SALEM, OR 97310

Attn: *Patricia C.* 

April 4, 1994

Friends of Cline Butte
c/o Sandra Sands
3450 S.W. 81st Street
Redmond, OR 97756

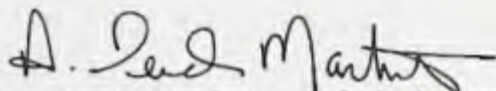
RE: Agenda Item L, April 8, 1994
Water Resources Commission Meeting

Dear Ms. Sands:

Item L has been deleted from the April 8, 1994, Water Resources Commission Meeting. The Director will recommend to the Commission that Application Number G-12905, in the name of Eagle Ridge Development Corporation, be considered at a special meeting of the Commission scheduled for April 20, 1994, at 11:00 a.m. This meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc

cc: Richard Whitman, Esq.
Karl G. Anuta, Esq.
ARLU DeCo

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(503) 378-3739
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April 25, 1994

Ms. Martha Pagel, Director
Oregon Water Resources Department
158 12th Street, N.E.
Salem, Oregon 97310

Re: Eagle Ridge Development Corporation
Groundwater Appropriation Application
526-0105

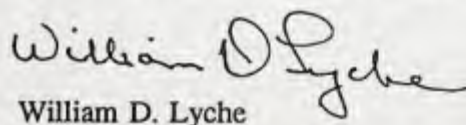
Dear Martha:

As you know, Eagle Crest has worked diligently for three years on a pending groundwater appropriation application to support our proposed resort expansion project. Your assistance on that application is sincerely appreciated.

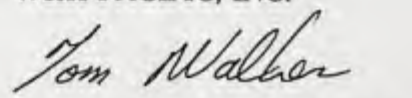
Eagle Crest completed an extensive hydrogeologic evaluation to justify the water right permit and demonstrate absolute technical compliance with regulations. Recently however, we have come to understand the tremendous pressure you and your staff experience, not only on the technical issues, but the very complex and subjective political and human interest issues. We do recognize that you have many obligations to the people of Oregon and the final decisions are difficult to understand and reach. Your recent work on our application with the Commission demonstrated the extreme difficulty with your job, and the diverse demands from various interests. We were very impressed with your skill and again sincerely appreciate your efforts and assistance.

Respectfully yours,

EAGLE RIDGE DEVELOPMENT CORPORATION


William D. Lyche

W&H PACIFIC, INC.


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

Eagle Crest
P.O. Box 1215
Redmond, OR 97756
(503) 923-0807
05260105mp042294.tr

cc: Martha
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APR 28 1994
WATER RESOURCES DEPT.
SALEM, OREGON

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

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APR 21 1994

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SALEM, OREGON

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

April 19, 1994

VIA FAX

Water Resources Commissioners
for the State of Oregon:

Lorna Stickel
Hadley Akins
Roger Bachman
Cliff Bentz
Mike Jewett
Anita Johnson
James Howland

RE: Eagle Crest Groundwater Application G-12905
Agenda Item L, 4/20/94 Meeting

Dear Commissioners:

I represent the Friends of Cline Butte (FCB) and the Alliance for Responsible Land Use in Deschutes County (ARLU-DeCo). Eagle Crest's application was moved to 4/20/94 to allow my clients to participate.

I write to provide a brief summary of my clients concerns, so that any presentations you hear on the twentieth can be succinct and useful.

RESPONSIBILITY

The Commission is charged by statute with responsibility for protecting the state's ability to control the ground and surface waters of the state. See eq. ORS 537.525. The Commission has adopted rules delineating its duties. Those rules, found in the Groundwater Management Policy, mandate that the Commission manage ground and surface water together, to protect the public's interest in those waters and to prevent both competing uses and interference between ground and surface water. See OAR 690-410-010(1) and 010(2)(a).

SUMMARY

ARLU-DeCo and FCB were shocked and dismayed by the proposal to issue the Eagle Crest groundwater permit, without a contested case. This matter should be sent to contested case because:

1. A well reasoned and considered decision is not possible at this time, given the volume of detailed material before you.

Both ARLU-DeCo and FCB filed detailed protests raising many significant policy and factual issues. Oregon Trout, the Warm Springs Tribe, ODFW, WaterWatch of Oregon, and numerous individuals and groups have also expressed detailed concerns about this proposed water use. There are voluminous factual materials on both sides of each issue. It will take a Hearings Officer, a subcommittee of the Commission or a lengthy, multi-hour meeting to sift through all of the data, policy arguments and issues involved and reach a well thought out decision.

2. There is inadequate information on groundwater resources in the relevant area.

Prompted by previous concerns on this very issue (destination resorts in Central Oregon) the Agency is currently a participant in a broad state, federal and local government study of the groundwater resources in the Deschutes area. Issuance of a groundwater permit, prior to the conclusion of that study, is premature. It also makes the Agency's original call for and participation in that study look absurd.

Moreover, what if the study shows that despite everyone's best intentions and best "judgement" the resource is over-allocated or suffering significant cumulative effects. Will the Commission then try to revoke Eagle Crest's permit and face potential takings litigation. Why run that risk, when a study of the very resource at issue is nearly completed. If the study shows there is not a problem, then Eagle Crest can still be given a permit. However, if you act now and are mistaken, revoking such a permit will be extremely difficult.

3. The information before you contains conflicting conclusions and findings.

The staff report concludes that this withdrawal will not have adverse effects on the Deschutes River downstream. However, the Deschutes County Land Use Hearings Officer (who had the benefit of a contest case like process) made a finding that: "[T]he expansion of Eagle Crest will reduce discharge of the regional aquifer into the Deschutes River and will ultimately add to the cumulative adverse effect to the Columbia River." 1/13/94 Eagle Crest Conceptual Master Plan, p. 54.

As noted, no cumulative effects analysis has been done on this proposal, despite repeated calls for such work. See eq. FCB Protest p. 3. Permitting an enormous¹ new use now, may well be an action taken at the expense of future users. The Land Use Hearings Officer was obviously concerned about this. See Master Plan p. 131 and p. 54. The 1984 Deschutes Basin Plan Findings also suggest this is a problem. See WaterWatch Objection p. 2-5.

However, Eagle Crest and WRD staff disagree and think that this is not a problem. This type of cumulative effects analysis and long range decision making should be made in a contested case, not in a one to two hour snapshot of time at a meeting scheduled to discuss the agency annual budget. Both the protestants, the resource and the applicant deserve better.

4. This application is being processed out of order, apparently as a result of political and/or economic pressure.

WRD staff admits that this permit is being brought forward out of order. However, staff contends that because there is a large amount of analysis on this permit, it is ok to go out of order. See Staff Rpt. p. 6, ¶ 4. This does not squarely address the issue. It also does not answer the question: Why, in the face of prior Commission directives to stay in order, is this application being processed out of order.

It appears this action is in response to a 1/28/93 letter from the Majority Whip of the Oregon House of Representatives, forwarding a letter from Eagle Crest. See Mater Plan p. 59, Items D. and E. In other words, staff is responding to political and economic pressure.

Processing applications out of order, particularly when it is in response to political or economic pressure, sets horrendously bad precedent. How is the Commission going to deal with the next well healed or politically well connected applicant. What about the one after that. And so on. How are each of you going to explain this to the small family farmer who was in line before this or that well connect applicant.

¹ Deschutes County staff have pointed out that Eagle Crest's domestic and irrigation use will be 4,140 gpm, or almost 1/3 of the entire flow of the Deschutes River in the spring and summer, in this area of the River. See Master Plan p.19 ¶7

Page 4
April 19, 1994

The Commission should not let its credibility be damaged in this fashion. You should stand by your prior directives, and send this matter to contested case.

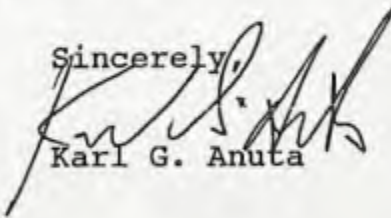
CONCLUSION

The decision of this Commission is being carefully watched by Deschutes County and other resource managers. Issuance of a permit, in the face of a prior acknowledgment of lack of information and an ongoing study, will send a clear message. It will not be the right message. Such action will probably trigger a rush to the proverbial permit desk, to try and compel issuance of additional permits before the study is completed. It will also hold the Commission up to ridicule for being unwilling to wait for the outcome of it's own study.

This situation cries out for a contested case, or, at the very least, entry of an interim order continuing this matter, to afford the agency the opportunity to complete ongoing investigations on the nature of the resource proposed for allocation. Cf. ORS 537.170(3). That would also give all the participants an opportunity to take stock. Perhaps with additional time the applicant and protestants might be able to agree on conditions that would address pending concerns.

ARLU-DeCo and FCB urge the Commission to take a step back. Consider whether there is really a "need" for issuance of this permit, at this time, without the safeguard of a contested case or interim order. We think that upon reflection you will agree that is not the case.

Sincerely,



Karl G. Anuta

KGA

cc: Clients
Reed Marbut, OWRD
Richard Whitman, Eagle Crest
Stephanie Burchfield, ODFW

THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

April 28, 1994

100 Justice Building
1162 Court Street NE
Salem, Oregon 97310
FAX: (503) 378-3802
TDD: (503) 378-5938
Telephone: (503) 378-6986

RECEIVED

MAY - 2 1994

BY FACSIMILE AND REGULAR MAIL
228-6551

WATER RESOURCES DEPT.
SALEM, OREGON

Karl Anuta, Esq.
Sokol and Associates
735 SW First Avenue
Portland, OR 97204-3326

Re: Eagle Crest Water Rights
DOJ File No. 690-303-NR010-94

Dear Karl:

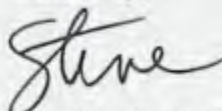
I have received your letter dated April 26, 1994, regarding the status of water rights for the Eagle Crest development. I have some technical corrections to your description, by reference to your paragraph numbers:

2. The Commission decided that the permit for Phase II domestic use could be granted if the holders of all water rights for the development, both Phase I and II, consented to the conditioning of those already granted rights with the same conditions proposed for the Phase II domestic rights (We do not believe the Commission has authority to impose new conditions on already issued permits);
- 3, 4. The Commission did not specify the applicant had to submit written consent from the Homeowner's Association allowing the addition of those conditions to its right, although I asked Richard Whitman as a courtesy if he would provide that consent in written form to avoid future disputes;
5. Under OAR Chapter 690 Division 9, the potential for short term interference between surface water flows and ground water pumping is presumed based on a number of factors; one of those factors is whether surface water flows are depleted by 25% of the ground water pumping within 30 days (OAR 690-09-040(4)(d)). My understanding is that the Commission did not believe that the exercise of this ground water right would result in such surface water depletion.

Karl Anuta
Page 2
April 28, 1994

Could you be so kind as to forward these comments to the cc list on your letter? I do not have all the fax numbers or addresses.

Sincerely,



Stephen E.A. Sanders
Assistant Attorney General
Natural Resources Section

SEA:tmt/SEA0010.LET

cc: Martha Pagel, WRD
Reed Marbut, WRD ✓

April 11, 1994

Mr. Louie Pitt
Confederated Tribes of the Warm Springs Reservation
P.O. Box C
Warm Springs, OR 97761

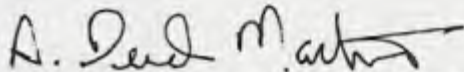
RE: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Dear Mr. Pitt:

Enclosed is a copy of the above-referenced Agenda Item. This Item was deleted from the April 8, 1994, Water Resources Commission Meeting. The Commission will consider Application Number G-12905, in the name of Eagle Ridge Development Corporation, at a special meeting of the Commission on April 20, 1994, at 11:00 a.m. The meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc

cc: Dale Hile, Cornelius OR



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

April 11, 1994

Mr. Louie Pitt
Confederated Tribes of the Warm Springs Reservation
P.O. Box C
Warm Springs, OR 97761

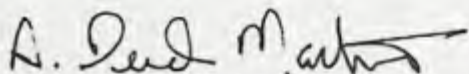
RE: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Dear Mr. Pitt:

Enclosed is a copy of the above-referenced Agenda Item. This Item was deleted from the April 8, 1994, Water Resources Commission Meeting. The Commission will consider Application Number G-12905, in the name of Eagle Ridge Development Corporation, at a special meeting of the Commission on April 20, 1994, at 11:00 a.m. The meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc



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

April 11, 1994

William Boyer, Chairman
ARLU DeCo
17979 Jordan Road
Sisters, OR 97759

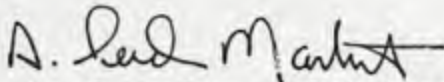
RE: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Dear Mr. Boyer:

Enclosed is a copy of the above-referenced Agenda Item. This Item was deleted from the April 8, 1994, Water Resources Commission Meeting. The Commission will consider Application Number G-12905, in the name of Eagle Ridge Development Corporation, at a special meeting of the Commission on April 20, 1994, at 11:00 a.m. The meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc



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

April 11, 1994

Friends of Cline Butte
c/o Sandra Sands
3450 S.W. 81st Street
Redmond, OR 97756

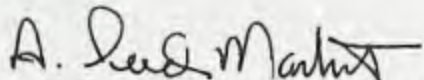
RE: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Dear Ms. Sands:

Enclosed is a copy of the above-referenced Agenda Item. This Item was deleted from the April 8, 1994, Water Resources Commission Meeting. The Commission will consider Application Number G-12905, in the name of Eagle Ridge Development Corporation, at a special meeting of the Commission on April 20, 1994, at 11:00 a.m. The meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc



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

April 11, 1994

Richard Whitman, Esq.
Ball, Janik & Novack
1100 One Main Place
101 S.W. Main Street
Portland, OR 97204

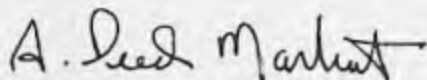
RE: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Dear Mr. Whitman:

Enclosed is a copy of the above-referenced Agenda Item. This Item was deleted from the April 8, 1994, Water Resources Commission Meeting. The Commission will consider Application Number G-12905, in the name of Eagle Ridge Development Corporation, at a special meeting of the Commission on April 20, 1994, at 11:00 a.m. The meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc



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

April 11, 1994

Karl G. Anuta, Esq.
Larry N. Sokol & Associates, P.C.
735 S.W. First Avenue
Portland, OR 97204

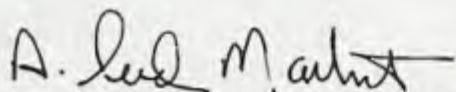
RE: Agenda Item L (REVISED), April 20, 1994
Water Resources Commission Meeting

Dear Mr. Anuta:

Enclosed is a copy of the above-referenced Agenda Item. This Item was deleted from the April 8, 1994, Water Resources Commission Meeting. The Commission will consider Application Number G-12905, in the name of Eagle Ridge Development Corporation, at a special meeting of the Commission on April 20, 1994, at 11:00 a.m. The meeting will be held in Salem at the Department office, 158 12th Street, N.E.

If you have questions or comments, please give me a call.

Sincerely,



A. Reed Marbut, Administrator
Water Rights/Adjudication Division

ARM/dpc



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

BALL, JANIK & NOVACK
ATTORNEYS AT LAW
ONE MAIN PLACE
101 S.W. MAIN STREET, SUITE 1100
PORTLAND, OREGON 97204-3274
TELEPHONE (503) 226-2525
TELECOPY (503) 295-1058

RICHARD M. WHITMAN

1101 PENNSYLVANIA AVE. N.W., SUITE 1035
WASHINGTON, D.C. 20004
TELEPHONE (202) 638-3307
TELECOPY (202) 783-6947

April 5, 1994

RECEIVED

APR - 6 1994

WATER RESOURCES DEPT.
SALEM, OREGON

BY FAX, ORIGINAL BY MAIL

Ms. Martha Pagel
Director
Oregon Water Resources Department
158 12th Street, NE
Salem, Oregon 97310

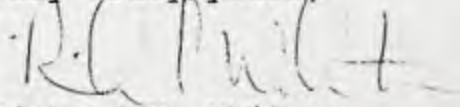
Re: Eagle Crest

Dear Martha:

I am writing to confirm my understanding that the Department will recommend that consideration of the protests to the Eagle Crest application be postponed to a special meeting of the Commission on April 20th. While my client, Eagle Crest, recognizes that postponement may be desirable to assure that the protestants are given every opportunity to participate fully in review process, we also want to make sure everyone involved realizes that there are also substantial costs to delay, and that any further slippage in the schedule would make it very likely that Eagle Crest will go through another year with no ability to move forward in the development of Eagle Crest II.

I recognize that this has been a difficult situation for the Department, and I appreciate your efforts to reach a reasonable resolution.

Very truly yours,


Richard M. Whitman

cc. William D. Lyche
Thomas A. Walker
Karl Anuta

RMW\EAGLE\PAGEL.405

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

RECEIVED

APR - 4 1994

WATER RESOURCES DEPT.
SALEM, OREGON

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

April 1, 1994

BY FAX AND REGULAR MAIL

Martha Pagel
Director
Water Resources Department
158 12th, NE
Salem, OR 97310

RE: 4/8/94 WRC Agenda Item L
Eagle Crest/Eagle Ridge Resort - Application #G-12905

Dear Martha:

I have just been retained by ARLU-DeCo and the Friends of Cline Butte. These groups previously filed timely protests of the above referenced application.

Yesterday afternoon my clients discovered, to their shock and dismay, that this matter was on the agenda for the 4/8/94 WRC meeting. No one from the agency consulted my clients (the protestants) about this scheduling. Neither of the groups have received any prior notice of this hearing, which they are entitled to under both your own rules and the general due process provisions of state and federal law.¹ Nor has either group received a copy of the Agenda or the staff report.

The 4/8/94 meeting is in Roseburg, Oregon. Neither my clients nor I can make that meeting on such short notice. I have a trial scheduled at that time and my clients have vacations out of the area planned. Had the groups received notice, the many interested members would have scheduled their activities to allow appearance at this meeting. Lacking notice or any sort, they have effectively been denied their due process rights if the matter is still heard on the eighth.

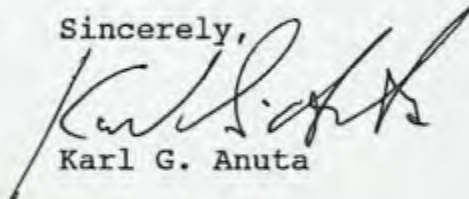
¹ Each group has a different mailing address. Had only one notice been received perhaps the missing notice could have been attributed to a mail problem. The fact that neither group has received any notice, agenda or staff report suggests a more fundamental problem.

Martha, as you know, this is not the first time the agency has had a problem with failure to give timely or any notice to a protestor. Proceeding with a hearing in the face of such a fundamental problem, regardless of how it happened, exposes the agency to both litigation costs and a public perception of either bias or incompetence. Under the circumstances I request that you reschedule the matter immediately.

I believe the next regularly scheduled meeting is in Klamath Falls, on June 3, 1994. That would be acceptable as a new hearing date and location. If for some reason that will not work for the WRC, perhaps a special session could be scheduled.

Please advise immediately how the agency intends to proceed on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Karl G. Anuta', is written over the typed name. The signature is fluid and cursive.

Karl G. Anuta

KGA

c: Clients
Eagle Ridge Development
A. Reed Marbut, WRD Admin.

Holmes Hurley
Bryant Lovlien & Lynch
ATTORNEYS AT LAW

William M. Holmes
James V. Hurley
Neil R. Bryant
Robert S. Lovlien
Gregory P. Lynch
Lynn F. Jarvis
Daniel C. Re, LL.M.
William J. Storie
John A. Berge
Sharon R. Smith
Alvin J. Gray, of Counsel

40 N.W. Greenwood
P.O. Box 1151
Bend, Oregon 97709-1151
Telephone (503) 382-4331
Fax (503) 389-3386

DATE 1/13/93TIME 1:15

FAX TRANSMITTAL COVER SHEET
Originating FAX No. 503-389-3386

Receiving Fax No. 503) 378-8130DELIVER TO: Ed GabrielSENT BY: Sharon SmithNumber of pages including this cover sheet: 2SPECIAL INSTRUCTIONS: For your review.

Please call (503) 382-4331 if you have any questions about this transmission.

This facsimile transmission and/or the documents accompanying it may contain CONFIDENTIAL INFORMATION belonging to the sender which is protected by the ATTORNEY-CLIENT PRIVILEGE. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, YOU ARE HEREBY NOTIFIED that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this information is strictly prohibited. If you have received this transmission in error, please notify us immediately by telephone to arrange for return of the documents.

AK
FAX Operator

VI. DECISION

Based upon the foregoing, the Applicant's request for a variance from the setback standards of the destination resort ordinance, Application V-93-28, is **DENIED** and the application for Conceptual Master Plan, CU-93-94, is **APPROVED** subject to the following conditions:

1. All areas platted in Phase II and CRT for individual lots are not authorized as legal lots by this approval. The Applicant shall obtain tentative plat approval from the County Planning Division prior to platting these and other areas of the expansion areas. All lot lines shown on the CMP maps shall be removed from the FMP maps as those boundaries will be determined in the platting process, not in the CMP or FMP process. Additionally, the Applicant shall accurately depict the boundary for Phase I, encompassing only those areas included in the CMP application and that were reviewed and approved as a part of the resort in this decision.
2. The Applicant must obtain County site plan and landscape management zone approval permit for the water intake and pumphouse structures that it has installed on the banks of the Deschutes River, unless the Applicant establishes that these structures/facilities are exempt from these review requirements. The Applicant must either obtain such approval or obtain a written statement of exemption from the Planning Director, prior to FMP approval. The water intake and pumphouse shall be shown on the FMP map, in the location approved by the Planning Division.
3. Excavation, grading and fill and removal within the bed and banks of a stream or river or in a wetland shall be a separate conditional use subject to all pertinent requirements of this title. The Applicant shall obtain a fill and removal permit for the pump that the Applicant has installed on the banks of the Deschutes River or shall remove all pump structures, prior to FMP approval, if the installation of the pump facilities involved fill and removal within the bed and banks of the river.
4. The Newton study adequately determined the impact area of the Phase II wells. The study did not, however, address the impact of Phase I wells. This information is required by the destination resort ordinance as the existing resort must comply with all standards of the ordinance, if existing resort facilities are used by the Applicant to qualify for destination resort approval of the expansion area, as has been done in this application. The Applicant must remedy this deficiency prior to FMP approval and prove that the standards of approval of the destination resort ordinance regarding wells are met by these wells.
5. The Applicant will be required to bond or assure improvements that are necessary for resort development, as required by DCZO 18.113.110.

Holmes Hurley
Bryant Lovlien & Lynch
ATTORNEYS AT LAW

William M. Holmes
James V. Hurley
Neil R. Bryant
Robert S. Lovlien
Gregory P. Lynch
Lynn F. Jarvis
Daniel C. Re, LL.M.
William J. Storie
John A. Berge

40 N.W. Greenwood P.O. Box 1151 Bend, Oregon 97709-1151
(503) 382-4331 Fax (503) 389-3386

RECEIVED

JAN 14 1994

WATER RESOURCES DEPT.
SALEM, OREGON

Sharon R. Smith
Gordon J. Evans
Kevin J. Keillor
Lisa N. Bertalan
Alvin J. Gray,
of Counsel

January 13, 1994

ED GABRIEL
WATER RESOURCES DEPT.
3850 PORTLAND RD., NE
SALEM, OR 97310

Re: Eagle Crest

Dear Ed:

Enclosed please find a copy of the decision we received in the Eagle Crest matter. Please give me a call with your comments after you have had an opportunity to review the same.

Sharon R. Smith
(alk)

SHARON R. SMITH

SRS/alk
Encl.
(EAGL61)

RECEIVED

JAN 14 1994

DECISION OF DESCHUTES COUNTY HEARINGS OFFICER

**WATER RESOURCES DEPT.
SALEM, OREGON**

FILE NUMBERS: CU-93-94, V-93-28

HEARING DATES: October 14, 1993 and October 21, 1993

RECORD CLOSED: November 3, 1993

APPLICANT: Eagle Crest Partners, Ltd.
Post Office Box 1215
Redmond, Oregon 97756

PROPERTY OWNER: Eagle Crest Partners, Ltd.

REQUEST: Applicant is requesting approval of a Conditional Use for a Destination Resort Conceptual Master Plan (CMP) that would allow a 746 acre expansion of the existing Eagle Crest Destination Resort and a Variance to setback standards for certain proposed roadways along the perimeter of the resort.

STAFF REVIEWER: Dale Van Valkenburg, Associate Planner



I. APPLICABLE STANDARDS AND CRITERIA

Title 18 of the Deschutes County Code, the County Zoning Ordinance:

- Chapter 18.16, Exclusive Farm Use - EFU-SC Zone.
- Chapter 18.32, Multiple Use Agriculture - MUA-10 Zone.
- Chapter 18.84, Landscape Management - LM Zone.
- Chapter 18.113, Destination Resorts - DR Zone.
- Chapter 18.128, Conditional Uses.
- Chapter 18.132, Variances.

Title 22, the Deschutes County Land Use Procedures Ordinance.

PL-20, The Deschutes County Year 2000 Comprehensive Plan, Goals and Policies pertaining to the siting of Destination Resorts.

II. SCOPE OF REVIEW

This matter is reviewed by the Hearings Officer to determine whether the conditional use and variance applications filed by Eagle Crest meet the requirements of County and, where applicable, state subdivision and land use law. The Hearings Officer does not have authority to change or waive the requirements of the County's land use ordinances, except when the criteria for obtaining a variance have been established by the Applicant. The Applicant has the responsibility for proving that each and every applicable requirement of law has been or will be met by the proposed destination resort and that all conditions for obtaining a variance to County standards have been met. If this burden has not been met, the applications must be denied. Conversely, the Hearings Officer must approve the applications if all relevant criteria are met.

The Hearings Officer's decision is limited, by law, to the facts presented to the Hearings Officer and that are included in the record of this matter. These facts include written documents, oral testimony and matters observed by the Hearings Officer when visiting the Eagle Crest resort and Eagle Ridge golf course. The findings in this decision determine which facts presented are the basis for decision of the application and includes conclusions about whether the Applicant has satisfied the conditions for approval of the submitted applications.

III. SUMMARY OF DECISION

The Hearings Officer has approved Eagle Crest's application for conceptual master plan approval for a destination resort expansion. That application included the entire Eagle Crest Resort property, however, in order to meet the criteria of the County's destination resort ordinance. As a result, many of the provisions of this decision apply to the existing Eagle Crest resort and to the proposed expansion areas. The conceptual master plan was granted subject to compliance with a number of conditions, intended to assure that the requirements of the County's destination resort ordinance are met by the Applicant.

CONCEPTUAL MASTER PLAN:

SEWAGE DISPOSAL - The Applicant is required by the destination resort ordinance to develop a sewage disposal plan that makes a "beneficial use" of wastewater, if practicable. The waste treatment option preferred by the Applicant, septic tanks and a septic tank collection system, does not make any beneficial use of the wastewater. The Applicant has convinced the Hearings Officer that the Applicant's septic system plan is the only feasible plan for the resort at this time. This conclusion is based upon the fact that the sewage treatment demand for the resort is relatively low and subject to wide variations in volume.

The Hearings Officer has, however, required that the Applicant plan for a future central sewage treatment system, to reserve land for a treatment plant on Eagle Crest

property and to assure that such a system will be built when needed. The details of this plan will be formulated prior to final master plan approval. The Hearings Officer imposed this requirement because the septic tank disposal system will not be able to serve all lots in the resort. Additionally, information provided by the Applicant's wastewater treatment expert indicates that, as the resort community grows, it will become feasible to operate a central treatment facility, due to an increase in the volume of sewage, as back up facilities may be constructed and used only during periods of high demand. The construction of a central treatment system will enable the Applicant to provide service for all proposed uses and lots and will assure beneficial use of wastewater, when such use becomes feasible.

The Hearings Officer has also left open the possibility that the Applicant may obtain sewage treatment service from the City of Redmond through a connection to the Redmond sewage disposal system, in lieu of providing an on-site treatment plant. This option may not, however, be exercised until the County's Comprehensive Plan is amended to authorize the connection and until the Applicant has obtained a binding commitment by the City of Redmond to accept the resort's effluent and to make a beneficial use of the treatment plant effluent, as required by the County's destination resort ordinance.

GROUND WATER AVAILABILITY - The Applicant has demonstrated that an adequate water supply is available to provide water for the resort from a regional aquifer and surface water source, and not from a perched water table. Although water supplies are not infinite, it appears there is adequate water for the proposed resort development and to serve the surrounding area at its current level of development. The Applicant already has water rights for the irrigation of all resort golf courses and for domestic uses in Phase I. The Applicant has applied to the State Water Resources Board for a water permit for domestic uses in the Phase II area. That board will decide whether to issue water rights to Eagle Crest for domestic uses in Phase II. Approval of this application is conditioned upon approval of the Applicant's pending water rights application by the Oregon Water Resources Department.

TRANSPORTATION - The Applicant concedes that a grade-separated traffic interchange is required at the intersection of Highway 126 and the Cline Falls Highway and that a traffic light is needed at the intersection of Highway 20 and Cline Falls Highway. The Applicant has been required to cause these improvements to be made or assured, subject to obtaining land use approval for the interchange, before final master plan approval is granted. The amount of financial participation by the State of Oregon in these projects, if any, is subject to the State's discretion.

INTERNAL TRANSPORTATION - The minimum pavement width for private roads within the resort, pursuant to Table "A" of Title 17 (as amended by Ord. No. 93-012) is 28 feet. Also, Cline Falls Highway must be improved to at least 28 feet in

width, along the Eagle Crest property frontage on that road, with left turn lanes and right turn deceleration lanes at both entrances (existing and proposed).

BICYCLE & PEDESTRIAN - The Deschutes County Bicycle Advisory Committee has raised several concerns with the proposed bicycle facilities within and adjacent to the resort. The Committee has also offered several suggestions for improving the safety and usability of the proposed facilities. The Applicant will be required to incorporate these suggestions into the resort design as a condition of receiving final master plan approval.

GOLF COURSE SETBACKS - The Applicant has been required to meet destination resort setback standards for the Eagle Ridge golf courses in Phase II that has not yet been constructed. The existing Eagle Ridge golf course does not meet the 50 foot setback requirement of the destination resort ordinance. The applicant may, however, have a right to retain the golf course in its present location if it is determined by the County Planning Director, prior to final master plan approval, that the course is a valid nonconforming use. If the course is not determined to be a valid nonconforming use, the Applicant may either comply with the setback, in a number of different ways, or may seek permission to maintain the course in its present location. These actions must be accomplished prior to final master plan approval.

OPEN SPACE - The Applicant's Open Space Area map needs to be revised so that it accurately reflects areas that qualify as Open Space under the destination resort ordinance. Floodplains, most developed areas (except golf courses) and required landscaped areas must be excluded from Open Space areas. The Applicant's master plan may need to be revised to provide more open space than shown on the CMP.

EMERGENCY SERVICE PROVISION - The entire resort area must be annexed into the Redmond Rural Fire Protection District, prior to Final Master Plan approval. The Applicant must also assure that there will be adequate police service facilities at the resort by developing a police services plan prior to FMP approval.

WILDLIFE DAMAGE MITIGATION - The Hearing Officer has required the Applicant to mitigate wildlife damage caused by the resort development, as required by the destination resort ordinance. The Applicant will be required to do this by taking actions specified in this decision and by paying money, if necessary, to a wildlife trust fund. The fund will be used to mitigate damages that are not adequately mitigated by implementation of the mitigation actions listed in this decision. The amount of this contribution will be determined prior to final master plan approval.

ECONOMIC ANALYSIS - The economic analysis of the impact of resort development provided by the Applicant's economic expert failed to assess the economic cost of all items listed in the County's destination resort ordinance. The Applicant will be required to assess these indirect costs, prior to FMP approval. The

Applicant will then be required to revise the assessment of benefit in the submitted analysis to reflect these indirect costs. If the analysis establishes that the resort will not have a substantial economic benefit, the Applicant will be given an opportunity to revise its resort plan to achieve that benefit.

VARIANCE

BIKE PATH/ROAD VARIANCE - The Applicant request permission to build roads and bicycle paths in setback areas, on the edge of the resort property. The Applicant failed, however, to meet the stringent requirements included in the County's land use ordinance for variances of this type. The requested variances were either not needed in order to accommodate road and bike ways or were necessitated by the actions of the Applicant in moving the location of the golf course closer to the resort boundaries than approved by the County in 1990.

IV. FINDINGS OF FACT¹

The Hearings Officer makes the following findings of fact regarding land use applications CU-93-94 and V-93-28:

1. **SUBJECT PROPERTY:** The subject property consists of three adjacent areas:
 - A. The first area is the existing Eagle Crest destination resort, referred to in the application material, and in this Decision, as "Eagle Crest Phase I". This area contains 508 acres and is located on the east side of Cline Falls Highway, adjacent to the Deschutes River. Eagle Crest Phase I consists of numerous tax accounts. These accounts are shown on Staff Exhibit #1.
 - B. The second area is the proposed primary expansion area for Eagle Crest Resort, referred to as Eagle Crest Phase II. This property is located at 68397 Cline Falls Highway, Redmond, and is further identified as tax lots numbered 15-12-00-1506, 15-12-00-4600, 15-12-23B-1500, 15-12-23B-1400, 15-12-22-101 and 15-22-102. This area is located west of the Cline Falls Highway on the east slope of Cline Buttes and contains 710 acres. It is currently developed

¹Many of the findings made by Associate Planner Dale Van Valkenburg in his comprehensive and well-written Staff Report regarding the Eagle Crest application have been adopted by the Hearings Officer in this report as findings of the Hearings Officer. The Hearings Officer wishes to thank Mr. Van Valkenburg for the valuable assistance he has provided in developing and analyzing the voluminous record required for a destination resort conceptual master plan application.

with the 18-hole Eagle Ridge Golf Course approved under County conditional use and site plan file Nos. CU-90-189 and SP-90-115.

- C. The third area consists of 36 acres adjacent to Eagle Crest Phase I, referred to in the application material as "Canyon River Territories" (or "CRT Expansion"). The CRT Expansion area is adjacent to Condor Drive at the southwest corner of Phase I, and is comprised of the following tax lots: 15-12-23B-900; 15-12-23D-200; 15-12-23D-100; 15-12-23D-400; and 15-12-23D-300.

FINDING: The Applicant sought, in its Supplemental Burden of Proof Statement, to enlarge the size of the CRT Expansion Area to include Tax Lots 15-12-23B-1501 and 15-12-23B-1300 (See Exhibit 69). These areas were not included in the Applicant's CMP application. They may not, therefore, be added to the resort by the Hearings Officer, at this time. The Applicant has not provided any information about the impacts that will be caused by these additions on the entire resort proposal. No notice was provided to affected parties of the inclusion of these areas in the resort application, so it is not legally possible to include these properties in this approval.

2. **ZONING:** The Eagle Crest resort and proposed expansion areas include several different zoning designations. Eagle Crest Phase I is zoned primarily MUA-10, Multiple Use Agriculture, with areas of EFU-SC, Exclusive Farm Use - Sisters/Cloverdale Subzone. All of the residential and commercial development within Phase I is located on areas zoned MUA-10. The EFU zoning is found on areas utilized as open space, golf courses, and playing fields. There is also a Landscape Management Combining Zone along those portions of the property within 1/4 mile of the Deschutes River and within 1/4 mile of Highway 126.

Eagle Crest Phase II is zoned entirely EFU-SC, with that portion of the property located within 1/4 mile of Highway 126 also within the LM Combining Zone.

The Canyon River Territories area is zoned primarily Rural Residential - 10 Acre Minimum. Some Canyon River Territories lots are zoned EFU-TRB.

All three phases of Eagle Crest are within the Destination Resort (DR) Combining Zone.

3. **PROPOSAL:** The Applicant, Eagle Crest Partners, Ltd., has applied for a Conceptual Master Plan and Conditional Use Permit for a Destination Resort to allow a 746 acre expansion of Eagle Crest destination resort. The original application materials reversed the acreage for Phase I and Phase II, crediting Phase I with 710 acres and Phase II with only 508 acres. As a result of this error, the Notice of Public Hearing mailed to surrounding property owners referred to a 544 acre expansion of the resort instead of the actual expansion size of 746 acres. Notice of this error was

provided to affected parties, in the County Planning Division staff report regarding this application. The report was mailed to affected parties.

In actuality, the Applicant proposes to use the existing 508 acre Eagle Crest Phase I as a basis for expanding into two new areas. Eagle Crest Phase II will contain 710 acres and is located to the west of Phase I, across Cline Falls Highway. Canyon River Territories is adjacent to Phase I, on the east side of Cline Falls Highway and contains 36 acres. The total size of the proposed resort will be 1,254.34 acres.

The Applicant is seeking approval for an additional 497 single-family homesites (41 in the CRT Expansion and up to 456 in Phase II) over those already authorized in Eagle Crest Phase I, plus 162 multi-family units (1/5 share condominiums) and 120 timeshare townhouses and 226 hotel room facilities for a total of 891 new units and a total of 1410 total units in both phases, according to Exhibit 37. Narrative in the Applicant's burden of proof statement and a chart on Exhibit 2 indicate that the Applicant may not construct all 456 homes, but may elect to build multiple family units in their place. There appear to be inconsistencies between the burden of proof statement, Exhibit 2 and Exhibit 37 regarding the number of units allowed. The Hearings Officer, therefore, finds that the numbers shown in this Decision shall control over all other written documents submitted by Applicant regarding the number and type of units that are allowed by this approval. This number and type of units allowed by this approval is discussed in greater detail below.

Phase II is proposed to be constructed in a series of phases, as depicted on a map labelled "Eagle Crest II Preliminary Master Plan" [Exhibit 2]. Proposed project amenities will include tennis courts, swimming pools, recreation centers, two 18-hole golf courses (previously approved under CU-90-189 and SP-90-115), soccer and football fields, and significant areas of open space.

The CRT Expansion will be included as a part of Eagle Crest Phase I and is proposed to be built in two phases. No project amenities are to be located in the CRT Expansion other than open space areas.

The Applicant has submitted the following Exhibits in support of this application:

1. Eagle Crest Phase I and Phase II Preliminary Master Plan Map
2. Eagle Crest II Preliminary Master Plan Map
3. Eagle Crest II - Phase I Tentative Plan Map
4. Canyon River Territories Tentative Plan Map
5. Map of Office Expansion Area

6. April 1992 Wildlife Assessment by Beak Consultants, Incorporated with recommendations for mitigation of damage to wildlife habitat
7. Hydrogeologic Study by David J. Newton Associates, Inc. for Eagle Crest Phase II, April 1992
8. Letter dated March 11, 1992 regarding erosion control from Thomas A. Walker, P.E., Senior Associate for W&H Pacific to William D. Lyche of Eagle Crest Partners Ltd.
9. Traffic Impact Analysis by Kittelson & Associates, Inc. for proposed Eagle Crest Resort Expansion, dated April 1992
10. June 12, 1992 Letter from Kittelson & Associates to Bill Lyche of Eagle Crest Partners, Ltd. regarding impacts of adding 41 units to Phase I (CRT Expansion)
11. Letter from Daniel A. Seeman of Kittelson and Associates, Inc. to Mark DeVoney, ODOT Transportation Planner, regarding possible grade separated interchange agreement
12. Vacation Resort Owner Documents
13. Estate Homesite Owner Documents
14. Eagle Crest Estate Homesite Association - Architectural Review Committee Policies and Guidelines, February 1992
15. Eagle Crest Open Space Management Plan
16. Eagle Crest statement regarding public use of Eagle Crest facilities
17. Domestic Water Supply System Master Plan by W&H Pacific - -
18. Letter from W&H Pacific re Water Impact of CRT Expansion
19. October 1992 technical review of Eagle Crest, Phase II hydrogeologic study by Joseph B. Gonthier, Hydrologist and Registered Professional Geologist for Deschutes County Community Development Department.
20. October 16, 1992 letter from David J. Newton Associates, Inc. responding to concerns regarding groundwater raised by WaterWatch of Oregon.

21. April 19, 1993 letter from Oregon Water Resources Department (File G-12905) stating that the Eagle Ridge Development Corporation application for a water use permit for three wells to provide domestic water for 900 families and lawn irrigation satisfies OWRD technical review requirements. Letter states that the application was being subjected to a public interest review. Permit would authorize use of up to 3 CFS or 1330 gallons per minute. Proposed permit conditions would require beneficial use of all water, without waste, no later than October 1, 1996.
22. Letter from Central Electric Cooperative stating willingness and ability to serve Eagle Crest Phase II
23. Letter from U.S. West Communications regarding ability to serve Eagle Crest Phase II
24. Letter from Falcon Cable T.V. stating ability to serve Eagle Crest Phase II
25. Employee Safety Manual
26. Sewage Disposal Plan by W&H Pacific for Eagle Crest Phase II
27. Letter re Impact on Existing Sewage Collection System of CRT Expansion
28. Letter from Thomas A. Walker, Senior Associate, W&H Pacific re Domestic Water and Sanitary Sewage, with attachment of OAR 340-55-005 through -030
29. Wildfire Prevention and Evacuation Plan for Eagle Crest Phase II
30. Report by Janet Hardwick, Housing Available for Employees in Bend and Redmond
31. Analysis of Projected Economic and Fiscal Impacts of Eagle Crest II by Hobson & Associates
32. Rental Agency Agreement
33. Cost of Facilities to Date
34. Improvement Costs for Recreational Amenities Phase 1 & 2
35. Narrative of Existing Structures; Proposed Uses - Eagle Crest, Phase II

36. Open Space Calculations (two documents submitted at different times)(51.89% open space for entire resort per September 1993 calculations, 53.33% per October 1993 calculations)
37. Overnight Accommodations v. Total Units Calculations (original and revised, the original is on Holmes, Hurley letterhead)
38. Eagle Crest II - Roadway Setback Map
39. Letter from Eagle Crest CEO and President Jerol E. Andres re financing stating that Eagle Crest Partners, Ltd. had spent \$3.2 million dollars on Eagle Crest Phase II development and nearly \$700,000 in expenses in seeking approvals required for resort expansion.
40. Partial Transcript of October 8, 1992 Hearing regarding withdrawn applications for destination resort approval and variances (through Applicant's presentation, no testimony from opponents' or rebuttal testimony)
41. Letters of Support from Robert C. Riggs, Mayor of Redmond and Elton Gregory, Superintendent of Redmond School District 2J
42. United States Department of Interior, Bureau of Reclamation Memorandum dated October 1 1991 enclosing Technical Reconnaissance Report, Survey of Groundwater Resources, Upper Deschutes River Basin, Oregon by Gary King
43. Hydrogeologic Study, Eagle Crest Phase II, Supplemental Findings by David J. Newton Associates, Inc. dated September 30, 1993
44. October 11, 1993 letter from David J. Newton, P.E., C.G. to Bill Lyche stating that Eagle Crest wells obtain water from the regional groundwater aquifer, not from perched water tables.
45. October 14, 1993 letter from Daniel A. Seeman of Kittelson & Associates, Inc. regarding the traffic impact of Eagle Crest Phase II traffic on the intersections of U.S. Highway 20 and Cline Falls Highway and U.S. Highway 20 and 7th Street in Tumalo.
46. October 13, 1993 letter from Janet Hardwick, Director of Personnel for Eagle Crest to George Read, Planning Director stating that Eagle Crest did not invest in the Stoneybrook Apartments in Redmond, as stated in her February 21, 1992 letter.

47. Order No. 92-110 of the Board of County Commissioners of Deschutes County annexing Eagle Crest Phase II into Rural Fire Protection District No. 1.
48. Memorandum from Kurt Giesler, COIC, to Sharon R. Smith dated October 11, 1993 regarding the 1984 value of Eagle Crest resort improvements.
49. Flood Insurance Rate Map for Deschutes County
50. Open Space Map prepared by W&H Pacific, dated 10-8-93
51. November 2, 1993 letter from Kittelson and Associates to William Lyche regarding outstanding traffic issues regarding Eagle Crest impacts to public road systems²
52. Schematic Sewage Disposal Plan for Typical Single Family Septic Tank and Drainfield, November 1, 1993 by W&H Pacific
53. March 24, 1987 letter from Thomas A. Walker, P.E. to Karen Lyche of Eagle Crest Partners with water pollution control facilities permit for the Eagle Crest Resort Phase I
54. September 16, 1992 letter from Thomas A. Walker, P.E. to James L. VanDomelen, P.E. of the Water Quality Division of the Oregon Department of Environmental Quality and application for a Water Pollutant Control Facilities Permit.
55. June 4, 1992 Letter from Oregon Department of Environmental Quality (DEQ) to Eagle Crest Partners Ltd. acknowledging receipt of WPCF Permit Renewal Application.
56. June 7, 1990 Letter from DEQ stating that Eagle Crest Partners then possessed a current Water Pollution Control Facilities Permit (No. 100104) for its wastewater treatment system located in Eagle Crest Phase I and stating that system was operating properly when inspected on October 17, 1989 by DEQ.

²The applicant submitted a large scale map of the proposed new interchange of Cline Falls Road and U.S. Highway 126 as Exhibit 51 during the hearing of this matter. The applicant subsequently submitted this document and identified it as Exhibit 51. The Hearings Officer, therefore, renumbered the interchange map Exhibit 70.

57. August 10, 1992 letter from James L. Van Domelen, P.E. to Thomas A. Walker, P.E. regarding establishment of a sewerage system master plan for Phase II of Eagle Crest.
58. March 5, 1993 from Thomas A. Walker to Judy K. Johndohl of DEQ regarding water pollution control facilities permit application for Eagle Crest II sewerage system.
- 58A. Land Use Compatibility Statement submitted to DEQ regarding water pollution control facilities permit application for Eagle Crest II sewerage system.
59. Certificate of Limited Partnership for CBU Ltd., an Oregon Limited Partnership listing Eagle Crest G.P., Inc., an Oregon corporation, as only general partner.
60. October 8, 1992 letter from Judy K. Johndohl, DEQ, to Cline Butte Utility Company stating that water pollution control facilities permit was received by DEQ and assigned application number 997015 and requesting additional information.
61. June 3, 1991 letter from DEQ to Canyon River Territories residents regarding ground water, Deschutes River water and pesticide and lawn fertilizer concerns.
62. November 3, 1993 letter to the Hearings Officer from William D. Lyche, Director of Development for Eagle Crest, stating that Eagle Crest provides security, safety and emergency service through a staff of 11 full-time employees.
63. November 2, 1993 letter to the Hearings Officer from John Thronson, Director of Golf Maintenance of Eagle Crest, regarding water conservation measures employed by Eagle Crest on its golf courses.
64. Memorandum from Thomas W. Cook, Associate Professor of Horticulture for Oregon State University entitled "Are Golf Courses Polluting the Environment?" discussing golf courses in the Portland, Oregon area.
65. Summary of Results of Employee Questionnaire by Janet Hardwick, Personnel Department of Eagle Crest and Listing of Job Titles at Eagle Crest Resort as of June 15, 1993
66. November 1, 1993 letter to Hearings Officer regarding Eagle Crest Water Rights from Thomas A. Walker, P.E.

67. November 1, 1993 letter from David J. Newton, P.E., C.E.G., regarding Eagle Crest Phase II Groundwater Issues
68. October 20, 1993 Memorandum prepared by Hobson & Associates in response to testimony and documents submitted by Marjorie S. Turner and Clyde Everton criticizing Hobson & Associates' economic analysis of economic impacts.
69. Current Tax Map Designation of Eagle Crest Phases I and II, including CRT area and surrounding properties.
70. Interchange Map

The Applicant has also submitted the following documents prepared by Sharon R. Smith and Robert S. Lovlien, of Attorneys for Applicant (Holmes, Hurley, Bryant, Lovlien & Lynch), in support of this Application: Burden of Proof Statement, Response to Staff Report, Supplemental Burden of Proof Statement Addressing Questions Raised by Hearings Officer dated November 3, 1993, and Proposed Conditions of Approval.

All of the documents submitted by the Applicant have been marked and placed in three white notebooks.

The Applicant has also submitted the following documents that were not included in their submitted exhibits. The Hearings Officer has placed these items in the white notebooks provided by the Applicant and has numbered these documents as follows:

71. 10/20/93 letter from Thomas Walker of W&H Pacific about the proposed Highway 126 overpass.
72. 10/20/93 letter from William D. Lyche to Linda Burwell stating that there will be no access between Eagle Crest and Cline Butte Oasis. Mr. Lyche proposed using mounds and landscape vegetation near Ms. Burwell's property to minimize the impact of the proposed golf course on Ms. Burwell's property.
73. 10/21/93 letter from William D. Lyche to Dale Van Valkenburg stating that Eagle Crest did not run its water pump on the Deschutes River after Bob Main required that the pump be shut down. The main line is broken, so pumping is not possible.
74. 10/11/93 letter from J. Ned Dempsey, P.E., President of Century Testing Laboratories. Mr. Dempsey states that the coliform test obtain by Ms. Sands does not be used to analyze Deschutes River water and to indicate the presence of human pollution. The reasons are that: (1) coliforms are a group of

bacteria that are prevalent in the environment that are used as an indicator but are not any proof of contamination; and (2) coliform tests are used for drinking water and have no value by themselves; and (3) fecal coliforms are organisms living in the intestines of warm blooded animals (deer, cows, beavers, etc.) and their presence in the river do not necessarily indicate pollution by humans; and (4) it is normal to have fecal coliforms and total coliforms in any surface water.

FINDING: This information, provided by Mr. Dempsey, is the only evidence in the record regarding the meaning of the results of the river water testing commissioned by Sandra Sands. The Hearings Officer, therefore, accepts Mr. Dempsey's conclusion that a higher fecal coliform count downriver from the resort than upriver, does not necessarily indicate contamination of the Deschutes River by Eagle Crest septic drainfields.

75. 10/21/93 written testimony of William D. Lyche. Mr. Lyche states that Eagle Crest has met its burden of proof with numerous professional reports and extensive documentation.

76. 9/13/93 Meeting Notes prepared by Thomas A. Walker, P.E.

In addition to the Conditional Use application, the Applicant is requesting approval of a variance to the road setbacks contained within Section 18.113.060(G)(b)(1)(iv) of Title 18. This section requires an exterior setback of 100 feet for roads within destination resorts. The Applicant is seeking a variance for three sections of roads within Eagle Crest Phase II that the Applicant wishes to build within the setback. These road sections lie at the north edge of the project adjacent to the Cline Falls Oasis Subdivision and behind the number 13 green and the number 17 tee of the existing Eagle Ridge Golf Course, in Eagle Crest Phase II. The second section lies at the 13th tee adjacent to land managed by the Bureau of Land Management at the northwest corner of the project. The third section of road lies behind the number 3 green on the southwest corner of the project. The Applicant has submitted a detailed map representing the areas of the requested setback variance [Exhibit 38].

The Applicant has also submitted tentative plan maps for Area 1 of Phase II and the CRT. The Applicant has not, however, submitted a burden of proof statement addressing the criteria for such approval. The Hearings Officer, therefore, finds that the tentative plan map is intended as an illustration in support of the conditional use application for CMP approval, not as a separate application. The Planning Division and Hearings Officer have processed this application with this basic assumption in mind. The Applicant will be required to plat all phases of Phase II and CRT and to obtain tentative plat approval from the County Planning Division, after FMP approval. All lot lines shown on the CMP maps shall be removed from the FMP maps as those boundaries will be determined in the platting process, not in the CMP

or FMP process. Additionally, the Applicant has failed to clearly indicate the property boundary for Phase I on the CMP map. That boundary shall be accurately shown on the FMP map and shall be consistent with the area included in the CMP application. No additional property may be included.

4. **NATURAL CHARACTERISTICS OF THE SITE:** The project expansion site is located in a transitional region between the ponderosa pine forests along the eastern slope of the Cascade Mountains and the nonforested high desert country of Eastern Oregon. There are no wetlands, riparian areas or significant natural features or rock outcroppings within the expansion areas. Such areas are found in Phase I, along the Deschutes River. The dominant habitat throughout the expansion area is juniper woodland, except for the areas recently disturbed due to the development of the Eagle Ridge golf course [Exhibit 6].

A description of the site's specific geology is set forth in the Hydrogeologic Study prepared by David J. Newton Associates, Inc. [Exhibit 7]. This study finds that the site of Phase II rests on the eastern flank of Cline Buttes, on the eastern edge of the High Cascades region, and adjacent to the Volcanic Plateaus of Central and Eastern Oregon. The site is underlain by a varied assortment of volcanic dikes and ash flows, ash flow tuffs, cinder cones, and volcanically derived sediments. Overlying this assortment are intracanyon and plateau-forming basalt flows and other recent surface deposits including alluvium and slopewash. According to topographic maps of the Phase II site, the slopes are relatively gentle, generally less than ten percent, with primary aspects being east and northeast. The existing Eagle Crest Phase I development is bounded on the east by the Deschutes River. Resort development is perched atop the Deschutes River canyon and a flat and rolling area between the river and the eastern flank of Cline Buttes.

5. **EXISTING USES/STRUCTURES:** Eagle Crest Phase I contains numerous structures and uses, including a hotel, restaurant, conference facilities, timeshare units, single-family residences, a sports complex, outdoor pools, tennis courts, a golf course, playing fields, an equestrian center, and others. The locations for these developments are shown on Exhibit 1, and are described in Exhibit 36.

The site of the proposed Phase II development was approved for development as two 18 hole golf courses under County Planning file Nos. CU-90-189 and SP-90-115 in November of 1990. Construction of the first 18 holes on the western portion of the Phase II site is completed. In addition to the golf course approval, the Applicant has also received previous approval for a golf course maintenance building (SP-92-39), two pump house buildings (SP-92-54), and a temporary golf pro shop (SP-93-15).

6. **AFFECTED AGENCIES:** Deschutes County has received the following comments from governmental and private entities and agencies affected by this land use action:

A. Deschutes County Property Address Coordinator:

The address of record is 68937 Cline Falls Road.

B. Watermaster, District 11:

They need to keep in close contact with our office so that the water right record is updated as development occurs.

August 6, 1993 letter from Bob Main, Manager of South Central Region, District 11 to Bill Lyche of Eagle Ridge Development Corp.:

"Although you have applied to Oregon Water Resources Department for a change in point of diversion, since the change has not been approved you are not authorized to divert water from the Deschutes River at this point. Although the diversion point was not being used at the time of our visit, it had been used in the recent past. . . . Any diversion from this point without authorization is a violation of ORS 540.710, which could result in criminal or civil penalties."

C. Deschutes County Bicycle Advisory Committee:

The Bicycle Advisory Committee submitted a four page letter in response to the nearly identical proposal submitted by Eagle Crest in 1992. The Committee's observations are still applicable to this proposal, and are summarized in the following comments:

Exterior Roads

1. Cline Falls Highway and Highway 126 are road that are often used by cyclists for recreational and training rides. Highway 126 is a part of the Trans-America Route and is also a State bicycle route. Although the total number of cyclists on any given day may be relatively small, the area receives steady bicycle traffic and should not be diminished as a cycling resource.
2. While the Cline Falls Highway and Highway 126 intersection is not currently a cycling problem area, any redesign of the intersection should keep in mind that bicyclists use it regularly.
3. As traffic increases on Cline Falls Highway, a sufficient shoulder for bicyclists will be necessary. The shoulder should meet the minimum rural arterial standards contained in the Deschutes County Bicycle Master Plan.

Interior Roads

4. It appears that the most popular destination for cyclists within the resort will be the commercial core in the center of the development. To promote cycling and walking as a viable way to travel around the resort, the trail system should access this area clearly, efficiently, and safely.
5. The system of two multi-use paths must be much more extensive to actually encourage the use of the paths over roads. In addition, the paths will not work well in residential areas with numerous driveway crossings. The Committee recommends that the bicycle transportation system include both separated paths and shared use of the roads, which would require 4' wide shoulders on the main roads and no on-street parking. In addition, the plan provides numerous opportunities to connect cul-de-sacs with paths, which would encourage the use of bicycles over cars.
6. All two-way bike paths should be separated from roadways by landscaping or berms.
7. To reduce the speed of cars on the streets, the Committee recommends 10' wide travel lanes with clearly marked bicycle lanes. Where the separated bike path crosses a roadway, "bicycle crossing" signs, a change of paving texture, stripes, or a gradual speed bump would also alert cars to the need to reduce speed.
8. The Traffic Impact Analysis assumes that bicycle and pedestrian movements between the two Eagle Crest developments are not expected to be significant. The B.A.C. disagrees with this assumption, and recommends that bicycle cross-traffic be planned for at the intersection of the resort access and Cline Falls Highway.
9. The present configuration of the Cline Falls Highway crossing as shown on the plan is inadequate and dangerous. A two-way bike path on one side of the crossing has led to serious accidents in other places. Bicyclists and pedestrians should be routed off of the two-way path and onto the appropriate side of the road (in the same direction as cars) to cross Cline Falls Highway.

D. Oregon Department of Transportation, Highway Division, Region 4:

October 21, 1993 letter from Mark DeVoney, Region Planner for ODOT stated:

1. The existing Cline Falls Road and Highway 126 interchange does not have a left turn lane for westbound to southbound turns. This lane is warranted at this time. It is very expensive to provide such a turn lane as such an improvement would require ODOT to widen the Highway 126 bridge across the Deschutes River to accommodate the lane. A cost share with Eagle Crest is a way to address this existing need. Eagle Crest will pay the percentage that their traffic bears to all traffic in the intersection. Eagle Crest will pay 100% of planning and design costs and 100% of construction costs outside of State right of way. The public share is estimated at \$240,000.
2. Highway 20 and Cline Falls Road. If the traffic analysis of this intersection is accurate and Eagle Crest contributes only a small percentage to total traffic, it is ODOT's position that Eagle Crest should not be responsible for the cost of improvements to these intersections. According to the Applicant, the Cline Falls Road and Highway 20 intersection meets traffic signal warrants. ODOT would need to verify this finding prior to installing a signal. An interchange at this location does not appear feasible due to disruption of this small community.

E. Oregon Department of Fish & Wildlife:

June 24, 1993 letter from Stephen L. Lewis, Regional Supervisor of ODFW to Larry Nunn, Oregon Water Resources Department stating support for Eagle Crest's water transfer application as it will greatly increase the summer flow (20%) of the Deschutes River below Bend, an area of low flows.

October 13, 1993 letter from Ted Wise stated that:

1. The subject property is not located within a wildlife combining zone.
2. Many wildlife species inhabit the area of the proposed development.
3. The conclusion of Beak Consultants that "the significance of the habitat in the project area for wildlife is reduced due to regional abundance of this habitat type (Juniper)" is a "gross over simplification of the situation." Mr. Wise states that large, mature juniper stands provide habitat for birds, small mammals, big game, predators and sensitive, threatened and endangered species. These trees provide thermal cover and food during winter months.
4. The area is important as habitat for deer.

5. Alteration of 1254 acres of habitat has a significant impact on wildlife.
6. Raptor use, including golden eagles, of habitats in the project area is common. These birds nest in cliff faces of the Deschutes River canyon and other suitable sites in the general area. The birds use the subject property for foraging.
7. The County staff report comment that Eagle Crest's irrigation and domestic usage will be 4,140 gallon per minute is comparable to 1/3 the flow in the Deschutes River below North Canal diversion during spring and summer months. This must be a peak usage number but that the resort should use millions of gallons of water each day. Is there a connection between the Eagle Crest aquifer and the springs that feed into the Deschutes River down river and how Eagle Crest usage will affect these springs.
8. ODFW questions the wisdom of committing to a development requiring so much water when the results of a middle Deschutes basin water study are expected in a couple of years.
9. ODFW is concerned about the water quality of the Deschutes River and the impact of fertilizers and herbicides used to manage the resorts golf courses. Recommended that the Applicant be required to monitor water quality and to make adjustments if water quality is degraded.
10. Land Use Planning Goal 8 requires full mitigation of impacts on fish and wildlife resources.
11. Some or all of the following should be required as mitigation measures:
 - A. Eagle Crest should contribute funding for the middle Deschutes groundwater study.
 - B. Require annual contributions to a habitat trust fund based on Eagle Crest revenues.
 - C. Develop an animal control policy to prevent harassment of wildlife.
 - D. Create a wildlife education program.
 - E. Develop riparian habitat along portions of any new lakes.

- F. Purchase COID land in the northeast corner of the project area for the County or BLM.
- G. Do not use poisonous baits to kill golf course rodents.
- H. Work with ODFW and BLM to improve habitats on adjacent public lands.
- I. Any large expanses of fence built should be done to specifications which allow the passage of deer.
- J. Stated that ODFW will not be responsible for wildlife damage within the development.

November 1, 1993 letter from Ted Wise, Habitat Protection Biologist, with introduction to a National Geographic article regarding groundwater scarcity and contamination:

1. The Deschutes County Comprehensive Plan prohibits the siting of destination resorts in especially sensitive big game habitat areas. Even though the proposed development is not in especially sensitive big game habitat, it is still big game habitat. Mule deer frequent the area. Development will cause a loss of habitat.
2. While juniper habitats may be widespread, examples of ecologically balanced juniper-sage-bunchgrass communities containing "mature" older trees are extremely rare. The value of such stands is extremely rare.
3. The Deschutes County Comprehensive plan protects sensitive bird nesting sites. There are such sites for Golden Eagles upriver from the present development. The lands these birds hunt includes the land proposed for development. Having an adequate forage base is imperative to their survival and nesting success. The loss of nearly two square miles of foraging habitat must be considered in the mitigation assessment. Erecting raptor perches is little consolation for such loss.
4. The County Plan states that: "The county shall conduct a study of the legal, economic and environmental consequences of the use of irrigation water for non-agricultural uses. I am unaware of the status of this study. ODFW would like to have this addressed in the findings and decision for this project.

FINDING: Deschutes County is participating in a regional groundwater study

with other governmental entities. Results from the study are expected in 1995.

5. The Comprehensive Plan directs the County to seek funding for a county-wide hydrologic study. The reasons for this direction are: "Water in adequate quality and quantity is important to all communities, but in a semi-arid region such as where Deschutes County is located it is of particular importance. Drought is a recurring natural phenomenon which has done much to direct the county growth and to determine its economic bases. Unfortunately, inadequate information exists on water supplies and on water quality."
6. While Oregon Department of Water Resources is responsible for approving the ground water right application, Deschutes County can delay a decision this matter until the comprehensive groundwater study is complete. If the findings of the study indicate an abundance of water and no adverse impacts from pumping of the amounts of water proposed, then a sound decision can be made to move forward.
7. Maintaining the fish populations and their habitats in the Deschutes River for the recreational enjoyment of present and future Oregonians is the responsibility of ODFW. The springs which flow into the Deschutes north of Redmond are very important for the health of the river. Decisions which may unknowingly affect the river flow regimes are definitely of concern to us. Factors that affect water quality are also of major concern to ODFW. As in previously submitted comments, we urge no decision be made that will degrade the water quality. Sewage and stormwater disposal should be in accordance with standards that assure this will not be the case.
8. Policies in the Comprehensive Plan emphasize efforts directed at improving flows in the river. The county should approve no project that is contrary to this policy.
9. Central Oregon Irrigation District makes contributions to a fish and wildlife habitat trust fund on an annual basis to mitigate impacts of its hydro-power diversion. There are currently several hundred thousand dollars in the account. The impact of lost habitat will be felt throughout the life of the development, so mitigation funds should be paid for some years into the future.
10. The Applicant should promote water conservation when facilities are constructed and when occupied through the use of low flow toilets and shower heads and other such measures.

F. Deschutes County Environmental Health Division:

Obtain a current report from DEQ regarding the operation and future potential for the presently WPCF permitted system. Consider using the treated effluent as a supplement to irrigation water (4% is 4%). Perhaps treated effluent would require less odor remedy.

G. The Bureau of Land Management:

The BLM provided the following comments in response to a nearly identical proposal by Eagle Crest in 1992. The BLM has not responded as of this writing to the current proposal.

1. We concur with the mitigation option which affects public lands presented on page 9 of the Wildlife Assessment report, and encourage the implementation of these measures.
2. Mitigation projects proposed on public lands should be planned jointly with BLM staff specialists.
3. BLM supports the proposal to restore lands damaged by off road vehicle use.
4. Rerouting the approach of the Cline Falls Highway with Highway 126 may require a right of way from BLM if realignment affects adjacent public lands.
5. Deschutes County may wish to consider reptiles, amphibians and other species which would utilize the pond areas further. More assessment related to golden eagles which utilize the surrounding habitat for foraging and nesting along the Deschutes River corridor would also be useful.

A document entitled Environmental Assessment prepared by the BLM was submitted to the Hearings Officer, regarding the environmental impact of Eagle Crest's request to construct a water pipeline and 150' by 150', 300,000 gallon (initially 100,000 gallons) concrete water reservoir on BLM land on the east slope of Cline Butte, to provide proper water pressure for domestic uses and adequate flows of water for fire fighting in Eagle Crest Phase II. The document states:

1. Oregon Health Division regulations require a permanent maintenance road around the structure and fencing to prevent vandalism. The Applicant proposes a six foot high chain link fence with wood slats.

2. The project would not adversely impact any critical environmental element.
3. No cultural or archeological resources were found by a required archeological survey in the area of the proposed reservoir and in the proposed right of way for transmission mains.
4. No sensitive, threatened or endangered plants were found.
5. Cumulative impacts from the proposed project should be minimal.
6. Residual impacts would result from the physical presence of the surface portion of the reservoir facility and the periodic maintenance inspections to the site.

H. Deschutes County Department of Public Works:

The destination resort proposed is fine from an external traffic standpoint provided that the following conditions are met:

1. The turn lanes are placed on the Cline Falls Highway for vehicles making left turns into both Eagle Crest I and Eagle Crest II.
2. Deceleration and acceleration lanes are placed on the Cline Falls Highway at the entrance to Eagle Crest I and II when and if traffic warrants are met for those improvements.
3. The improvements are made at Highway 126 and the Cline Falls Highway as addressed in the Kittelson letter to Bill Lyche dated June 12, 1992 and the Kittelson letter to Mark DeVoney dated September 17, 1992. In addition, the grade separated interchange shown in the drawing furnished by Kittelson is a worthwhile project at a future time as traffic needs require it. Gary Judd and I (Dick Johnson) would add that Eagle Road should probably be brought into the design of any future interchange on Highway 126 and the Cline Falls Highway.

From an internal transportation perspective, the following comments are made about Eagle Crest I and II:

1. Many of the units take access directly from the internal system of collector streets rather than from cul-de-sacs or short loop streets. (Contrast this with Sunriver or Black Butte Ranch.)

2. The proposed second access to the Cline Falls Highway from Eagle Crest II comes in at a point where the sight distance may not be that good. Has this been checked in the field?
3. The bicycle/pedestrian path system is fairly limited. This means bicyclists and pedestrians will be sharing the road with cars. No big deal for the bicyclists, but not acceptable for pedestrians.
4. The local roads need to be wide enough, 26 to 28 feet, to accommodate two way traffic and bicyclists and keep vehicles off the edge of the roads and from breaking up the edge of the pavement.
5. The overall density is low, but pedestrians need to be accommodated on their own separate path system or share a path system with bicyclists. Maybe a bike path on one side of the roads with other paths connecting neighborhoods etc.
6. Higher density, smaller lots, would encourage more walking/biking and would reduce the lineal feet of road per dwelling unit thereby reducing road costs per unit.

At some point, a shuttle bus system could serve Eagle Crest from Redmond, Bend or even the Redmond Airport. A logical terminal/depot area could be set up in both Eagle Crest I and II at a central point. This could reduce external trips to and from this destination resort from nearby cities.

I. Oregon Health Division:

The domestic water system will require plan review through the Health Division Drinking Water Program.

J. Deschutes Reclamation & Irrigation Co., dba Swalley Water:

The master plan for Eagle Crest and our water rights maps coincide. We see no sign of improvements planning to be built on land with Swalley water rights. Therefore, we have no comments or objections concerning this master plan.

October 15, 1993 letter to the Hearings Officer from C.C. Brown, Ph.D., Office Manager for Swalley Water:

A number of years ago, Swalley Water, the WRD Regional Watermaster and ODFW discussed the problem of low river water flows in the Deschutes River between the Swalley irrigation diversion dam north of Bend to the area where

big springs add water to the river just below Eagle Crest. It was decided that it would be beneficial to the river to transfer the point of diversion of irrigation water that is currently diverted by Swalley at the north end of Bend to a point further downstream. This plan would, however, be more costly due to water pumping costs. Swalley contacted Eagle Crest about the possibility of selling Swalley surface water rights to Eagle Crest to replace Eagle Crest ground water rights. There was an existing pump facility in place, which meant water could be diverted as soon as the state approved the change of transfer point. There was an earlier right of withdrawal at the Eagle Crest location, but for a different right.

At present there is a normal summer flow of approximately 30 cfs below Bend. The Eagle Crest transfer adds another approximately 5.7 cfs to this total, nearly a 20% increase. When the additional flow reaches Eagle Crest, some 18 miles downstream, Eagle Crest will withdraw only 57% of the added water. The remaining 43% continues on downstream below Eagle Crest. This transfer was arranged with the cooperation and support of Swalley Water, the Regional Watermaster, ODF&W and the Deschutes Basin Resource Committee.

K. Oregon Parks and Recreation Department

October 15, 1993 letter from Jack Wiles, Northcentral Region Manager:

The proposed interchange of Highway 126 and Cline Falls Highway will influence traffic to Cline Falls State Park and will be within the scenic waterway corridor. All Notifications of Intent and necessary approval should be obtained prior to any design or construction of the highway interchange.

OPRD received no scenic waterway notification prior to construction of water intake and pumphouse directly across the Deschutes River from Cline Falls State Park. The project must have Notification of Intent for activity on a Scenic Waterway, with notification of Oregon State Parks and Recreation Department as adjacent landowners on behalf of Cline Falls State Park. Proposed County visit to pumphouse to determine if it should be relocated or mitigated.

FINDING: The water intake and pumphouse is not a structure that is needed to assure the resort's water supply or to qualify for resort approval. The Applicant must, however, obtain County site plan and landscape management zone approval for the structure (DCZO Chapter 18.84), unless the Applicant establishes that the structure is exempt from those requirements. The structure should be shown on the CMP map, in the location approved by the Planning Division. The Applicant may also need to obtain scenic waterway approval from the State of Oregon.

L. Deschutes County Planning Division, Historical Resources

Michael Hall of the Planning Division provided copies of two confidential resource documents that describe archeological sites on Eagle Crest property and on surrounding properties. These documents are portions of a document entitled "A Cultural Resource Survey of the Deschutes River from Bend to the Deschutes/Jefferson County Line" that was prepared in January of 1986 by Sara A. Scott for Deschutes County. The Eagle Crest Phase I property contains two identified sites and there are a number of sites on surrounding property. No sites were identified on Eagle Crest Phase II or on the CRT expansion area of Phase I.

FINDING: The archeological sites identified in Phase I are located outside of the developed areas in Phase I and are not adversely affected by this CMP approval.

M. Oregon Water Resources Department

September 14, 1992 letter from Martha Pagel, Director to the Deschutes, Jefferson and Crook County Boards of Commissioners dated September 14, 1992:

"The Commission's approval of a request to use groundwater is predicated on . . . statutory mandates. Historically, when use of the state's groundwater resource was, in relative terms, small, the risk of depleting aquifers through permit issuance was correspondingly low. With Oregon growing at twice the national rate, the surface supplies largely fully subscribed during much of the year, reliance on groundwater is increasing. Now, the risk of depletion from permit issuance is far greater. Unfortunately, our understanding of this extremely complex physical system is not keeping pace with the demands being place on it. It is getting harder and harder to assure new uses will not impair the groundwater resource."

"A good illustration of these difficulties is the Commission's recent experience with applications for groundwater use for destination resorts in central Oregon. To the extent these developments represent demands not unlike that of small cities, the potential impacts on the groundwater resource can be great. In addition, impacts on nearby established users of the resource, as well as on surrounding creeks and springs can also be significant. . . . With ever-increasing requests and without more data, however, at some point a reasonable doubt is reached whether increased groundwater use is sustainable. We are very near, if not at, that point in many areas of the state, including parts of central Oregon."

"The groundwater information base will never be perfect. However, in many areas it must improve substantially before the Commission can both issue additional permits and meet its obligation to protect the groundwater resource. Through its statewide Groundwater Assessment Program, the Water Resources Department is attempting to establish the extent and capacity of the state's aquifers."

"We want to convey to you as clearly as we can that it is no longer safe to assume that obtaining a groundwater use permit is a formality. Without better information, it is possible that permit denials will be more common than permit approvals. Such actions on our part could, of course, have major impacts on local government actions as you seek to implement your comprehensive land use plans. Accordingly, I hope we can build a strong state/local partnership to address our mutual research and planning needs. Some initial ideas on how counties might participate in the process include supporting funding for or cooperating in comprehensive groundwater investigations, requiring additional groundwater analysis and information for certain land use decisions, or phasing development projects contingent upon results from groundwater monitoring."

FINDING: The federal, state and local governments are currently participating in a groundwater study of water in the Middle Deschutes basin. **Note:** After the close of the record in this matter, the State indicated that it did not have the resources to meet its financial commitment to fund a portion of the cost of the study. Whether the State will ultimately honor its commitment, whether other entities will finance the study or the study will be discontinued is unknown at this time. This fact has not been considered in this review, however, as it is not in the record upon which the Hearings Officer must make her decision.

N. Deschutes County Building Division, Redmond Fire Department, and U.S. West Communications responded with no comments.

7. **LOT OF RECORD:** Deschutes County previously determined that the subject property is a legal lot-of-record in land use matters #LR-90-177 and #LL-90-108.
8. **HISTORY:** The subject applications for a conditional use permit and variance are similar to the applications submitted under file Nos. CU-92-105 and V-92-21 in the Spring of 1992 by the Applicants. These two applications, which were accompanied by Tentative Plat file No. TP-92-775, were for a 710 acre expansion of Eagle Crest Resort and a variance to setback requirements for the same stretches of road covered in the subject variance request. The only substantive difference between the two sets of applications is the inclusion of the 36 acre Canyon River Territories Expansion area on the east side of Cline Falls Highway south of and contiguous to Eagle Crest I. This area was not included in the earlier applications.

Due to defects in the County's Destination Resort Combining Zone Map which were identified by the Land Use Board of Appeals and the State Court of Appeals, the previous applications were found to be invalid and no decision was reached. Now that the defects in the County's Destination Resort Map have been corrected, the Applicant has requested that the earlier applications be withdrawn and voided. The Applicant then filed the applications that are the subject of this land use action.

9. **COMMENTS BY OTHER PARTIES:** A large number of documents were received from persons, other than affected agencies, who were parties to the above-referenced land use actions. The testimony and exhibits submitted by this group is summarized below:

A. Nancy Hall submitted a memorandum, Exhibit 201, that made the following points:

1. Eagle Crest has the burden of proof and persuasion in the land use action.
2. Ground and surface water is held in trust for the people of Oregon.
3. It is the goal of the State of Oregon to prevent contamination of groundwater while conserving and restoring the resource.
4. "Once Eagle Crest Phase II is in place, natural drainages will be inundated with runoff from constant irrigation of the additional proposed golf course, lawns, gardens and grounds." Ms. Hall believes that this may cause a "downward moving saturation front" that could contaminate the principle aquifers. Newton's study assumes that the natural drainage will remain dry.
5. The Newton report finds that the chance of contamination is very low, not that contamination will be prevented or will not occur, as required by the County code and state law.

FINDING: Ms. Hall has not cited specific provisions of law to support this argument. The Department of Environmental Quality (DEQ) is charged with the responsibility for adopting and enforcing environmental regulations. Any system that will be used in Eagle Crest Phase II will need to obtain DEQ approval. In order to obtain such approval, the Applicant will need to establish that the system will meet all DEQ regulations and protect the environment to the extent provided in DEQ's rules.

6. Hydrologist Joseph Gonthier found, in his review of the Newton study, that "data may weakly support a statement in the study that suggests that Cline Buttes, a volcanic cone, could represent a local zone of

Frelatively high vertical permeability." Mr. Gonthier then stated that no hydrogeologic evidence has been introduced to resolve whether Cline Buttes rocks are indeed low-permeability units. Gonthier also stated that it is extremely difficult to obtain sufficient field data to prepare accurate water level maps for the area.

7. Gonthier stated that the test he considered did not adequately assess the effects of long term pumping. Gonthier also recommended that additional work be done to assess the effect of long term pumping and should include sites outside of the resort boundaries.

FINDING: Mr. Gonthier stated that a "desk top" or "paper model" could be used to assess the impact of long-term pumping on the well tested by Mr. Newton. These additional studies were conducted by Mr. Newton, as suggested by Mr. Gonthier, to assess the impact of long term pumping. That study determined that the results of long-term pumping were negligible (Exhibit 43).

8. DCZO 18.113.050 requires analysis supporting delineation of the impact area. All of the studies address only the proposed expansion and not adjacent areas.

FINDING: The Newton study adequately determined the impact area of the Phase II wells. The study did not, however, address the impact of Phase I wells. This information is required by the destination resort ordinance as the existing resort must comply with all standards of the ordinance, if existing resort facilities are used by the Applicant to qualify for destination resort approval of the expansion area, as has been done in this application. The Applicant will be required to remedy this deficiency prior to FMP approval.

9. DCZO 18.113.050 require that the application include areas of potential instability and water areas. The Cline Falls area is on a known active fault and the Deschutes River from Tumalo to Lake Billy Chinook is a State Scenic Waterway. All improvements within 1/4 mile of a Scenic Waterway must be approved by Oregon State Parks.
10. Goal 5 requires that the County inventory and assess groundwater resources and watershed and state protected river, however, County staff states that there are no Goal 5 considerations.

FINDING: Deschutes County has inventoried and assessed groundwater resources. No groundwater resources in the area of Eagle Crest were placed on the County's Goal 5 inventory.

11. ORS 536.310 (5) states that competitive exploitation of water resources for single purpose uses is to be discouraged when other feasible uses are in the general public interest.

Ms. Hall also submitted a copy of ARLU-DECO's June 29, 1993 testimony, Exhibit 202, on water that was presented to the State of Oregon's Water Resources Department regarding Eagle Crest's water rights permit application. It appears that this document was originally prepared for prior County action on Eagle Crest Phase II and was altered for use in the Water Resource Department proceeding. This testimony includes many of the points raised in Ms. Hall's memorandum.

- B. **Andy Tillman**, member of the Deschutes County Planning Commission, submitted a written document, Exhibit 203, entitled "Likely Effect of Eagle Crest II on Traffic in the Tumalo Area - Cline Falls Road (Cook Avenue)/Highway 20. The document states that:

1. The total number of units allowed at build-out (1410) will be an increase of 3.5 times the current level of 403 dwelling units. At the County average of 2.645 occupants per household, the 1007 new units will house 2,663 new people at the Eagle Crest Resort.
2. The average number of vehicle trips per household in Deschutes County is six to ten. This means that there will be between 6,042 and 10,070 trips per day to and from Eagle Crest above the level which already exists. Additionally, Eagle Crest requires a large staff of employees, some of whom travel through Tumalo to reach the resort. There are currently 250 full and part-time employees at Eagle Crest. Using the growth factor of 3.5 times the current development, it is reasonable to expect that there will be an additional staff of 875 people, not 200 as stated by the Applicant.
3. The Applicant's estimate that 25% of vehicle trips generated by Eagle Crest will pass through Tumalo. Mr. Tillman believes that this number will be higher due to the fact that he believes that many people will be drawn to Bend for shopping and eating. If the 25% number is accepted, the Applicant will add 2,517 trips a day to "downtown" Tumalo. This number will be greater if you add a realistic percentage of the 1,750 trips generated by 875 additional staff members or if you increase the percentage of trips to a higher, more realistic, level. The intersection of 5th and Cook Avenue is already dangerously congested.
4. According to Title 18 of the DCZO, a destination resort must not alter the character of the surrounding area or existing farm uses. The

addition of a cloverleaf on Highway 126 to handle resort traffic will cause an irrevocable change in the character and land use patterns of surrounding areas.

5. Cline Butte is a dominant geographic landmark. 850 new dwellings should not be placed on this landmark.
6. "Grey" water should be used to irrigate the Eagle Crest golf courses. A community sewer system should be required of a city of 4,854 people.
7. Mr. Tillman was told by an Eagle Crest salesperson that Eagle Crest Phase II would be a separate facility from the existing development. The Application should, therefore, be treated as a new resort, not as an expansion of an existing facility. This would require the construction of resort amenities at a cost in two million dollars in 1984 dollars. Some guarantee must be made that this is an expansion, not a separate resort.

- C. Marion Millard, 3201 SW 73rd, Redmond, Oregon 97756 submitted a written objection, dated October 14, 1993, to the fact that notice was not published in The Bulletin 10 days before the October 14, 1993 hearing. The objection and its attachments are marked Exhibit 204. Ms. Millard also submitted a letter (Exhibit 205) dated October 21, 1993 requesting that the record be kept open for seven days for the submission of additional written testimony.

FINDING: The County failed to publish notice ten days prior to the October 14, 1993 hearing. Notice was published on October 10, 1993 in The Bulletin, a newspaper of general circulation in Deschutes County. That date is ten days prior to the October 21, 1993 hearing that was specially set to assure that 10 days prior notice was provided. All October 14, 1993 testimony was available to all who attended the October 21, 1993 hearing so that they would have adequate opportunity to respond to that testimony. Additionally, almost all of the people who testified on October 21, 1993 attended the October 14, 1993 hearing. Ms. Millard's request that the record be kept open was granted. The record remained open until November 3, 1993.

On November 3, 1993, Marion Millard, submitted a letter in opposition to the applications that is marked Exhibit 262. In that letter, Ms. Millard makes the following points:

1. There are no MUA-10 lots in Canyon River Territories. 1 CRT lot is zoned U, 5 are zoned R/R and the others are zoned RR 10 according to information gathered from the Deschutes County Assessor's Office.

FINDING: Lots in Canyon River Territories are zoned, primarily, RR 10. Some lots are zoned EFU-TRB subzone.

2. I oppose placing roads, paths and other paved areas in the setback areas.
3. Routing traffic through ECII to Highway 126 will make Cline Falls Oasis subdivision uninhabitable.
4. 10' wide travel lanes and 25 mph speeds will be unacceptable to the residents on Highway 126 who work in Bend and commute via Cline Falls Highway.
5. The access for the resort on Cline Falls Highway already presents a traffic problem with golf carts, bicycles and cars crossing from Eagle Crest Phase I to Phase II. Rerouting the road between Fairways 14 and 15 will cause heavy traffic to compete with golf balls. Who will pay for damages to vehicles and motorists caused by stray golf balls?

FINDING: The Hearings Officer has required that all holes of the Eagle Ridge golf course that are close to Cline Falls Highway and its future proposed location, be located at least fifty feet from the highway. The Hearings Officer has also required that, before FMP approval is granted, that the Applicant prevent stray golf balls from entering roadways, bike lanes and pedestrian ways.

6. Traffic impacts at Tumalo, where Cline Falls Road intersects Highway 20, could be a problem since Deschutes County has abandoned the major portion of the Tumalo streets, if not all of them.

FINDING: A review of Deschutes County road vacation ordinances indicates that Deschutes County has not removed County road status from any of the roads impacted by the Eagle Crest Resort.

7. Phase I does not meet the required 2 to 1 overnight to other dwelling ratio. There are only 293 overnight accommodations out of 560 units. Eagle Crest Phase II needs 400 overnight units to meet the 2/3 ratio. At build out, ECR I and II should contain 773 2/3 overnight units, not 543.

FINDING: Ms. Millard has reversed the ratio. The Applicant is allowed to build two individually owned residential units for each unit of visitor oriented overnight lodging according to DCZO 18.113.060(D)(b). The Applicant's proposed resort development meets that standard.

8. Title 18 states that commercial areas should be only for guests of the resort. The method of operation and advertising that has been followed in the past has not been applied. Advertising signs in downtown Redmond and the newspapers do not abide by these standards of guests only. They should be required to gate both ECR I and II and allow only resort paying guests on the property except for the golf courses and the gate person should collect and issue greens fee tickets.
9. The Hearings Officer should find that CU90-189 and SP90-115 have expired and that the second golf course needs a new conditional use permit.

FINDING: The Applicant will be required to obtain a new conditional use permit for the second Eagle Ridge golf course, unless it can establish that all conditions of that conditional use permit were met prior to December 12, 1991.

10. The Applicant should assure that the minimum investment requirements and financial backing requirements of DCZO 18.113.070(C) are met through surety bonding. The costs of all permits, engineering and physical improvement costs should be covered by surety bonding. Mr. Lyche and Mr. Chase's "track record" warrants this requirement.

FINDING: The Applicant has established that it has met the minimum investment requirements of DCZO 113.070(C). The Applicant will be required to bond or assure improvements that are necessary for resort development, as required by DCZO 18.113.110.

11. Eagle Crest should participate in a limited partnership with the Central Oregon Regional Housing Authority if ECR gets tax credits as per their letter which is in the file. This simply means that the public taxpayers cover their investment be it local money or federal money.
12. Page 29 of the staff report states that the proposed resort expansion areas do not appear to have ever been employed in any type of resource production. This is incorrect, as the subject property was BLM land that was rented for grazing and cattle.
13. There are a number of farm and commercial animal production properties within the 3 mile area of Eagle Crest, including Operation Santa Claus on Highway 126, Coons Hollow Ranch (horses and cattle), cattle operation on the other side of Highway 126, a sheep operation to the east of Cline Falls Park. Between Highway 126 and Eagle Road there are llamas and several large farms. Sunny Butte dairy is on Cline Falls Road within three miles of Eagle Crest Resort. Between Cline

Falls Road and Barr Road there is an Arabian horse farm. There are llamas and other exotic animals on Barr Road.

14. ECR Phase II will not be built out before the Year 2000 because if allowed they will just add more acres. The grade separated interchange on Highway 126 is a bad idea because it will cause more traffic problems than it cures when it circles the golf course Fairway 14 and 15.
15. Excessive speeds may be attained on Cline Falls Road going down hill from the area of the proposed cloverleaf. The interchange cloverleaf will need to be far enough west that it will not be visible from the river. I think that this should be in place before anything is granted. I am opposed to the realignment and abandonment of a portion of Cline Falls Road because most of the people who are being impacted by this overpass have not heard of it nor seen a map. I am asking that a public hearing be held to consider this project. Many of the persons who use this road daily have no knowledge of this project.

FINDING: Whether there will be a cloverleaf style, grade separated interchange in the location proposed by the Applicant will need to be determined in a separate land use proceeding, prior to FMP review. If this particular design is not approved, a different solution to the interchange traffic problem must be designed and approved prior to FMP review.

16. The Applicant should be required to dedicate park land rather than pay an in-lieu of park land fee. They should dedicate land in Canyon River Territory as park land and make a buffer zone along the south edge of ECR I as Charlie Brown promised the residents when he was soliciting signatures for the second amendment to the CC & Rs.

FINDING: The Eagle Crest CRT expansion includes a buffer area of open space between the residential lots in the CRT expansion and other Canyon River Territories lots.

- D. Betty Marquardt, PO Box 1138, Sisters, Oregon submitted a number of documents. They include:

1. Exhibit 206 which includes an October 21, 1993 request to keep the record open for an additional 7 days, Comments on the Overpass Concept, a March 29, 1992 article by Rick Attig entitled "Highways May Need a Dozen Interchanges," a document that discusses commercial use allowed in destination resorts and commenting on road widths, a document entitled "Re: Non-allowed use in Destination

Resorts," a document entitled "Conceptual Water Plan" and a summary of exhibits introduced by Ms. Marquardt that summarizes the exhibits she submitted on poster boards and which she labelled Exhibits A1, A2 #1 and #2 and A3.

FINDING: Ms. Marquardt's request to keep the record open was granted by the Hearings Officer.

2. Exhibit 207 which includes excerpts of the Middle Deschutes/Lower Crooked River Wild and Scenic River Management Plan. This exhibit makes it clear that new structures and improvements must be set back a minimum of 100 feet from the ordinary high water line of the river. OAR 736-40-030 (1) prohibits persons from making "any improvement or change in land use of related adjacent land without first giving written notification to the Transportation Commission.
3. Ms. Marquardt's Exhibits A1, A2 #1, A2 #2 and A3 which include:

A1: Bulletin articles entitled "Farmers Hit Hard by Drought" dated 10/27/91, "Farmers Facing Dry Grim Season" dated 4/7/92, "Alley Owner, Watering Ban All Wet."

A2 #1: Photographs of an auction held in the Sunrise Room of Eagle Crest Phase I

A2 #2: Information regarding a Jazz Festival held on September 18 through 20, 1992

A3: Bulletin article of 12/29/91 entitled "Will Redmond Highway look like this in 1995?"
4. Exhibit 208 which is a letter dated October 14, 1993 stating that the published notice, which was enclosed with the letter, was not adequate and that she would wait until the October 21, 1993 hearing to testify.
5. Exhibit 263, November 3, 1993 documents that have been identified by Ms. Marquardt as follows:
 - 1/a Statement that hearing is legally flawed. This document states that the hearing was legally flawed because a public hearing regarding the overpass was not held. The document also states that the Hearings Officer cannot make a decision because certain County and State offices (DEQ) have not provided adequate

information and the State of Oregon has not completed its groundwater study.

FINDING: Approval of the CMP does not authorize construction of the overpass in the location shown on the plan. The applicant will be required to obtain such approval prior to FMP approval. The Hearings Officer is required to make a decision of the information presented into the record. The fact that some agencies have not commented on this important land use action is regrettable, but the Applicant is entitled to a decision on the merits of its applications, at this time. It is particularly disturbing that the Department of Environmental Quality did not comment on this application as they are ultimately responsible for the enforcement of environmental quality laws, regulate of wastewater disposal systems and have expertise that would have been useful in reviewing this matter.

1/b 10/26/93 Bulletin article entitled "Job Market has Ups and Downs." This article states that the unemployment rate in Deschutes County rose between August 1993 and September 1993 from 7.3% to 8.1%. This rise was attributed, by Mike Mahan, regional economist for the State Employment Division to a seasonal drop in tourism in the County.

1/c "Statement concerning previous exhibits entered into the Record." Ms. Marquardt said that Dale Van Valkenburg advised her that the County overlooks 1 to 3 day events at Eagle Crest. Ms. Marquardt believes that resort facilities should be made larger to accommodate this activity, if allowed, and that the County's ordinance should be adjusted to reflect actual uses.

FINDING: The Hearings Officer has addressed this issue in the Required Findings section of this decision.

1/d "Re: Addendum to the Staff Report Goal 5 Resources and Negative Impacts of Destination Resorts." Ms. Marquardt comments that Policy 5 of the Comprehensive Plan on pp. 37 & 38 was written in 1982 when Sunriver and Black Butte were considered "top-line." Ms. Marquardt says that the same is not true of Eagle Crest. Eagle Crest has a number of "temporary" buildings in Phase I that have never been replaced. These buildings should be replaced as a condition of approval of Phase 2. Now, in 1993, "destination resorts do have negative financial impacts on the citizens of Deschutes County." Ms. Marquardt says that if Sunriver becomes a city that the County will lose

much of its room tax revenue that funds County operations. Funds will need to come from other sources unless the County cuts its budget. Ms. Marquardt notes that the County spent money on legal fees when the Inn of the Seventh Mountain was involved in bankruptcy proceedings. Ms. Marquardt says that there are disputes over water usage and rights in Black Butte and the winter dumping of treated sewage water into Indian Ford Creek.

Ms. Marquardt says that Eagle Crest has had the following financial and other impacts: (1) taxes have risen on residences adjacent to Eagle Crest; (2) state and federal funds will be used to build roads and the overpass needed because of Eagle Crest project; (3) homes of the elderly will be condemned for the overpass; (4) Eagle Crest could become a city and take room tax dollars from County coffers; (5) low paying jobs, no adequate, affordable housing for employees and the expense of commuting for employees; (6) traffic through the Tumalo rural service center will increase and will adversely impact the area with air pollution, traffic congestion and road damage; (7) Redmond will become a traffic corridor for Eagle Crest traffic and the resort will draw Redmond area residents to the resort's commercial attractions and facilities at the expense of Redmond businesses.

- 1/e "Re: Employee housing in vicinity of Eagle Crest, be located in the Canyon River Territory Subdivision." Ms. Marquardt believes that employees of Eagle Crest could be housed in the Canyon River Territories expansion area. This area is bound by covenants that prevent lots in CRT from being less than 5 acres in size. The lots have not gone through the partitioning process. Employee housing in CRT would reduce employee traffic and would allow employees to use bicycles to travel to work. Local government is required by ISTEA to plan transportation systems that will reduce air pollution.
- 1/f "Covenants of Canyon River Territory." CRT lots must be at least five acres in size. No temporary residential structures are allowed in CRT beyond six months. Commercial raising and keeping of animals is prohibited. Buildings must be set back 20 feet from front and rear lot lines and 10 feet from side lot lines. Easements for utilities are reserved over the exterior 20 feet of each lot.

l/g "Copy of letter to Phillip Paterno, BLM office." In this letter Ms. marquardt objects to siting of the proposed Eagle Crest reservoir on BLM land.

- E. October 11, 1993 Letter from Terry Hatfield to Tom Hall, Regional Consultant for DEQ with response letter from Mr. Hall (Exhibit 209). The letter written by Mr. Hatfield requested information regarding Eagle Crest's sewage disposal system. Mr. Hall responded by saying that copies of inspection reports dated 9/18/92 and 7/6/93 from W&H Pacific accurately summarizes problems that have occurred with Eagle Crest's sewage disposal system. Mr. Hall also stated that no complaints regarding the system have been received by DEQ since May of 1991 when residents of Canyon River Territories complained about the system.

November 1, 1993 letter from Terry Hatfield to Hearings Officer (Exhibit 250) which is a written statement of his testimony at the October 14, 1993 hearing. In this letter, Mr. Hatfield states:

1. I have lived in Canyon River Territories since 1980 and believe that Eagle Crest is a good neighbor. Their presence has created a wildlife refuge. The animal population has grown since Eagle Crest Phase I was built.
2. One person testified that approximately 7,000 automobiles would travel Cline Falls Road at any given time. If this were true, traffic would be backed up for 48 miles.

FINDING: The testimony presented about volumes of vehicles was stated in terms of days or during peak hours, which is a measure of traffic in a one hour period, not at any one time.

3. We need neighbors like Eagle Crest who will provide jobs, promote tourism to offset the failing timber industry and to clean up "a virtual garbage dump" known as Cline Butte and turn it into a beautiful place to work, live and play.
- F. October 11, 1993 letter (Exhibit 210) from MaryPat Meekins, 66350 Cline Falls Road, Bend, Oregon (P.O. Box 493, Redmond, Oregon 97756), stating "WE live here; WE'VE made our HOMES here; WE'RE raising our FAMILIES HERE; Eagle Crest has been enough of an impact already. PLEASE consider US before you change forever our 'little piece of heaven.'" The letter stated that many vehicles speed past Ms. Meekins home on Cline Fall Road and that she does not want to see another 900 dwellings in her neighborhood. Ms. Meekins says that vehicles seem to be driving faster than

in the past (60 to over 80 mph). Ms. Meekins is concerned about road maintenance on Cline Falls Road. A young girl was killed while riding a horse on Cline Falls Road a number of years ago. Ms. Meekins also raised questions about the adequacy of the water supply and contamination that might result from fertilizers on Eagle Crest lawns and gardens. Ms. Meekins states that Cline Butte is visible from many places in Central Oregon and inferred that it should not be covered with lights and houses.

G. October 14, 1993 written testimony of Clyde Everton, 1283 NW Trenton Avenue, Bend, Oregon 97701 (Exhibit 211) recommending denial of the Eagle Crest Resort Master Plan for the following reasons:

1. The 2/21/92 letter from Janet Hardwick, Director of Personnel for Eagle Crest states that the majority of the 200 new employees needed for Phase II will be employed at the \$5 to \$7 an hour range and will commute from Redmond (5 miles), Bend (15 miles) and Sisters (15 miles). The Deschutes County work force is already top heavy with wage earners in the \$5 to \$7 an hour category. At the time the letter was written approximately 80 to 90 per cent of the jobs offered through the local state employment office were in the minimum wage category.
2. Deschutes County needs family wage jobs. A single parent with two dependents need an hourly income of at least \$9 to \$12 an hour to meet basic housing, food, utilities, automobile, clothing, child care and medical and dental needs. The needs of families on welfare are met so a wage above the \$5 to \$7 hour range is needed to convince a single welfare parent to find a job.
3. Persons earning \$5 to \$7 an hour at Eagle Crest will need public assistance to meet their basic needs and will become a part of the "working poor" placing a drain on taxpayers and social service agencies.
4. There is a lack of affordable housing for future Eagle Crest employees. This problem will be made worse by the construction of the Bend Parkway which will remove about 82 residences from Bend, most which provide low-income housing.
5. The list of people waiting for housing through the County's Housing Authority has grown from 1000 to 1300 names in the past year.

H. Letter dated September 22, 1992 to the Hearings Officer of Deschutes County from Gladys I. Biglor, 62139 Cody Road, Bend, Oregon 97701 (Exhibit 212) regarding the wildlife assessment prepared by Beak Consultants, Inc. with a

3/31/93 The Bulletin article entitled "Winter Meant Death to Deer." Ms. Biglor states:

1. The Applicant does not meet the requirements of Goal 8.

FINDING: Goal 8 is not applicable to review of this application for approval of a conceptual master plan for a destination resort. Goal 8 was considered by the Board of County Commissioners at the time that they adopted the destination resort ordinance and mapped destination resort sites.

2. The survey that is the basis for the Beak report was conducted in mid-March of 1992, well before the time of year when Peck's milk-vetch, a federal candidate for listing as a threatened plant and an Oregon threatened plant, could have been observed. The plant's vegetative growing season begins in April. The plant flowers in May through June 15, bears fruit in late June and enters the late vegetative period in July and August. The County is required to assure that the Applicant will maintain identified natural features, such as threatened or endangered species per page 11 of Ord. No. 92-001.

FINDING: Ord. No. 92-001 made amendments to the County's Comprehensive Plan to allow the siting of destination resorts in EFU zones. The language referenced by Ms. Biglor refers to the steps that must be taken in the Goal 8 resort site designation process. That process is now completed and the subject property has been found to be appropriate for resort development.

3. The Beak report states that a joint project should be developed with BLM on adjacent public lands to reduce potential adverse impacts on deer. BLM has not been contacted by the Applicant.
4. The Beak report recommends that more trails be developed in an area that is supposed to be used to mitigate wildlife disruption from the resort but also notes that trails and roads adversely affect deer.
5. Seventy percent of the site will be permanently lost or altered with construction of Phase II. This would leave 180 of 600 acres for wildlife.
6. Beak Consultants expects an increase in species diversity due to the artificial habitat. There will, instead, be a shift in wildlife types. Deer habitat will become chipmunk and ground squirrel habitat.

7. When wildlife interferes with resort usage, the resort owners interfere with the wildlife. Eagle Crest has set off firecrackers on the golf course to discourage geese from using the area as their feces were degrading the golfers' experience.
 8. Wildlife mitigation measures should be mandatory to be enforceable and successful.
- I. Written testimony of Howard Paine, 15845 W. Meadow Lane, Sisters, in opposition to the Eagle Crest expansion, with a 10/19/93 article from the Oregonian entitled "Hermiston, Port Seek to Get Needed Water by Tapping Columbia," and a summary of a paper prepared by Ron Harvey of the US Geological Survey, Water Resources Division entitled "Considerations for Modeling Transport of Bacteria in Contaminated Aquifers." Mr. Paine states:
1. The majority of employees at destination resorts are paid \$5 to \$6 per hour. If you eliminate the pay of executives, management and sales staff, the average pay of the remaining employees would fall below the poverty level. These poorly paid employees must rely on food stamps, subsidized housing and other public assistance.
 2. Low pay and high housing costs in the area have left many persons hungry and in need of assistance.
 3. This expansion will add 891 homes and rental unit to the resort, creating a small city. I was astonished to read that the developer plans to use on-site sewage septic systems. The effluent will eventually contaminate local wells, leach into ponds and, perhaps, the Deschutes River.
 4. The County's Comprehensive Plan, Environmental Quality Policy 5 requires the County to consider the impact on water resources while considering the public need for the proposed development. _

FINDING: The provisions of the County's destination resort and development ordinances were adopted in compliance with Statewide land use planning goals. The County is not required, at this time, to revisit Goal 5 issues.

5. The Water Resources Chapter of the Comprehensive Plan, Policy 10 states that any project that endangers the purity of local ground water shall be vigorously discouraged.

FINDING: This Comprehensive Plan policy is a general policy that is implemented through the County's destination resort, development ordinances and State of Oregon environmental regulations.

6. The destination resort ordinance requires that water use must not reduce the availability of water in the water impact area. How can Eagle Crest water 3 golf course, serve 1340 housing units, fill swimming pools, serve a restaurant and a multitude of other water uses at the resort, totaling 5.9 million gallons a day without having an impact on ground water?
7. Hermiston's deep basalt aquifers are going dry after two decades of intensive use. This will occur here in Central Oregon due to Eagle Crest's water use.

FINDING: The hydrogeologic studies and recorded information about the aquifer in this region indicate that there is currently an abundant supply of water in the aquifer. No concrete evidence has been submitted to establish that the regional aquifer from which Eagle Crest obtains its water will run dry, given current usage of the resource. The volume of use contemplated by Eagle Crest alone is not sufficient to deplete the aquifer. This does not, however, mean that this aquifer will never become depleted from the many current and future users who do and will tap into the regional aquifer.

8. The Applicant should pay the full cost of all traffic improvements required by Eagle Crest according to DCZO 18.113.070 (G). The State should not pay 60% of the cost of the proposed interchange for Highway 126 and Cline Falls Road.
 9. The Applicant should be required to provide low cost, on-site housing for employees who are paid at a rate below the poverty level, to build a sewage treatment plant and use wastewater to irrigate the golf courses and pay all road improvement costs, without cost sharing. —
- J. Written testimony of Sandra Sands, with exhibits (Exhibit 214). Ms. Sands states:
1. The BLM land swap with Eagle Crest should not have been completed without notice to the public.

FINDING: This issue is not relevant to decision of this application.

2. During a drought, Eagle Crest obtained approval for two new golf courses while Ms. Sands was watering her garden with dish water.

3. Ms. Sands learned that Eagle Crest plans to site homes on 1/2 acre lots with irrigation on each lot, around the new golf courses.
4. Ms. Sands is concerned about the potential for ground and surface water contamination from 500 septic tanks upslope from Canyon River Territories and the Deschutes River. Cline Buttes is sloping and the soils are sandy and porous. Constant irrigation of two golf courses and 500 irrigated lawns will turn the porous soil into a porous sponge, drawing septic and chemicals into the ground water.
5. State protective agencies have refused to monitor the resort, leaving monitoring to the resort. Cross-connection problems and a lack of inspections was turned over to W & H Pacific rather than being investigated by the Health Department.
6. Photos labelled Exhibit C show grease disposal contaminants oozing downslope toward the river from the Eagle Crest restaurant. The local health department was unaware of the problem.
7. Ms. Sands hired a consultant to take river water samples above and below river from the resort. The fecal coliform count is 7 MPN prior to the resort and 26 MPN directly below the golf course, almost 4 times as high. This should be monitored by DEQ.
8. The leach field at Eagle Crest is brown, not lushly green and it smells.

FINDING: The grass above the community drainfield is brown. This area is clearly identifiable from Cline Butte by the change in color from other resort grass areas.

9. Why must resort homeowners purchase water pressurizing systems?
10. Why did Eagle Crest install a pipe in the river and a 100 horsepower pumping station to withdraw river water without authorization? The Applicant should have addressed whether this pump and the proposed overpass/interchange will comply with the Scenic Waterways Act in its Burden of Proof statement.
11. Resolution of issues should not be deferred until Final Master Plan Review by the Planning Director.
12. A public hearing must be held regarding the proposed 30' concrete overpass and interchange. Tax dollars will fund 60% of the cost, solely to benefit Eagle Crest.

13. Eagle Crest will add 200 more persons to a waiting list of 1300 low-income persons waiting for housing in Central Oregon. Deschutes County has one of the highest costs of living in the nation. Destination resorts drive up the cost of living.
14. Eagle Crest will ultimately include 1,254+ acres. It will include 240 townhouses, 218 multi-family units, 656 permanent homes with 1/2 acre irrigation each, two 150 unit hotels, restaurants, conference centers, office complex, gas station, shopping mall, post office, convenience store and three golf courses irrigated by ground water. At 2 persons per unit there will be a population of 3,000 persons on Cline Buttes, excluding golfers and visitors to resort amenities (and employees).
15. Ground water is a Goal 5 resource. Eagle Crest will use 4,140 gallons of ground water per minute or 6,000,000 gallons per day. Eagle Crest has not proven that there is an adequate supply of water to meet the needs of the resort. Expansion of the resort should await the results of the comprehensive ground water study that is now being conducted.

The exhibits submitted by Ms. Sands, and attached to her written testimony (Exhibit 214), are:

- A. Petition to Watermaster Robert Main (Deschutes County), DEQ and the Deschutes County Board of Commissioners from 40 Canyon River Territories residents stating concerns about Eagle Crest septic tanks, fertilizers, pesticides and chemicals and excessive water use by Eagle Crest and requesting water monitoring of ground and river water by DEQ.
- B. Two Activity Reports of the Oregon Health Division regarding cross connection hazards at Eagle Crest.
- C. Eight photographs of areas around the Eagle Crest restaurant.
- D. Water test results of Deschutes River water taken from the river on 10/15/92.
- E-1. August 6, 1993 letter from Bob Main, Manager of South Central Region Watermaster's Office to Bill Lyche, Eagle Ridge Development Corp. regarding illegal diversion of river water.
- E-2. October 1, 1993 letter to Bob Main from Sandra Sands raising a number of questions regarding water rights.

Ms. Sands also submitted the following documents into the record:

1. Portions of the Deschutes County Comprehensive Plan (Exhibit 251) regarding water resources and archeological resources.
2. August 13, 1993 The Bulletin article by Scott Maben entitled "Groundwater to be Studied" (Exhibit 252). The article states that there has never been a systematic look at the groundwater hydrology of the area and that a study was begun in May 1993 to study this resource. The first phase of the project should be completed in approximately three years.
3. July 2, 1992 The Bulletin article entitled "Resorts: We've Got Enough" (Exhibit 253). This article cites the results of a major survey of County residents that showed that 80 percent of County residents believe that there are too many or enough destination resorts in Deschutes County.
4. August 5, 1992 article from The Spokesman dated August 5, 1992 (Exhibit 254) that states that Bend's cost of living is about 6 percent above the national average.
5. November 25, 1990 article from The Bulletin entitled "Resort Courses Ignite Debate" (Exhibit 254). The article states that County Planner Jim Raisanen said that allowing golf courses in what is now proposed as Phase II of Eagle Crest could open the door for homesites. Once golf courses are established, the developers can argue that the property is no longer suitable for farm uses.
6. June 29, 1993 letter from Jen Twining to Martha Pagel, Director of Oregon Water Resources Department submitting testimony to the Department regarding Eagle Ridge Development Corp.'s Water Permit Request No. G-12905, stating reasons why the permit application should be denied. These objections were that the report supporting the application did not meet the requirements of law for permit issuance as it lacked evaluations of required matters; that the County's Goal 8 ordinances are not acknowledged; the Department should not issue a water right until it receives County land use approval; the proposed use is not in the public interest; the application was processed out of order; the Water Resources Commission should review the application; the proposed use violates land use regulations and the Comprehensive Plan; the use is not compatible with environmental concerns and natural resources in the Deschutes basin.

FINDING: The County's destination resort ordinance and mapping of the Eagle Crest for resort development has been acknowledged by LCDC as being in compliance with statewide planning goals.

7. A document entitled "Questions and Objections to Staff Report and Burden of Proof" prepared by Sandra Sands, dated November 3, 1993, which is in a manilla file folder marked Exhibit 260. Numerous documents are included in the folder and are identified by Ms. Sands as follows:

- A. 9/21/91 Letter from Environmental Health Division of Deschutes County to the Deschutes County Planning Commission regarding the destination resort ordinance. This document suggested including language in the destination resort ordinance that would exclude drainfields and sewage lagoons, except under certain circumstances, from being considered beneficial uses of wastewater. The letter also states that the Deschutes County Planning Commission has a concern regarding the lack of a basin-wide groundwater study. The letter also indicated that resort Applicant should be required to develop an erosion control plan for all disturbed land, as required by ORS Chapter 468.
- B. National Geographic Article on Water. This article was submitted because it discusses contamination caused by runoff and supports Ms. Sand's request that runoff water be utilized for beneficial use.

FINDING: The Applicant will be required to provide greater detail about the specifications of the proposed sewer system prior to FMP approval. That document shall include plans for stormwater collection and disposal.

- C. Pages 138 and 139 from the Deschutes County Comprehensive Plan. These pages were submitted to establish that the County recognizes the fact that drought is a recurring natural phenomenon in this area.
- D. Groundwater Study Article. This article was submitted to support Ms. Sand's argument that development of Eagle Crest should await completion of the groundwater study.

FINDING: The Hearings Officer does not have the legal authority to impose a moratorium on development, which is what has been requested by Ms. Sands and various other opponents. The imposition

of a moratorium on development is an action that must be imposed by a governing body. The ability of governments to impose moratoriums are strictly limited by state law. No moratorium on destination resorts or Cline Buttes area development has been imposed by Deschutes County.

F. List of Dairies and other farms in Bend-Redmond Area.

FINDING: This document states that cows from the Everett and Eva Thornburg ranch graze on 160 acres of rangeland that border Phase II. The document does not, however, specifically identify the landowner or parcel. The Hearings Officer did not observe any cows grazing on any lands adjacent to Phase II property. None of the other operations are contiguous to Eagle Crest. The addresses given indicate that all operations are located a significant distance from the Eagle Crest Resort. No evidence was submitted to indicate how any of the listed dairies would be impacted by Eagle Crest operations.

- G. Bulletin Article - 10/17/93. This article documents the fact that Eagle Crest pumped water from the Deschutes River without first obtaining a state permit to authorize the withdrawal. The photograph that accompanies the story shows that pump equipment/structures and pipeline have been built on the banks of the Deschutes River.
- H. Correspondence from Sandra Sands to Bob Main, Watermaster about Eagle Crest's withdrawal of water from the Deschutes River, without a permit.
- I. Swalley River Water Transfer Application.
- J. Health Department Reports discussing possible cross-connection problems in the Eagle Crest irrigation water system.
- K. Memorandum dated April 30, 1991 from Sandra Sands to the County Commission regarding wildlife and plant resources on Phase II land.
- L. Letter to C. Calica, Confederated Tribes of the Warm Springs from Sandra Sands regarding potential wildlife, plant and cultural resources on Eagle Crest property.
- M. Opposition Testimony, October 1992

M-1 Ray Curry Testimony. This document also contains other testimony but it appears that Ms. Sands has submitted the document for consideration of the Ray Curry testimony, only. Mr. Curry was employed with the Soil and Water Conservation District for Deschutes County in October of 1992. Mr. Curry stated that he conferred with DEQ about the use of septic systems at Eagle Crest and was told that DEQ allows such systems only because the County allows their use. Mr. Curry stated concerns about contamination of groundwater from the Eagle Crest septic systems.

M-2 Sandra Sands Testimony. This testimony contains the concerns expressed by Ms. Sands in other documents and testimony.

- N. Letter from Amy Patton, DEQ, 1/6/92 to Virgil Harper. Ms. Patton states that DEQ's groundwater section has not conducted research on the impacts of golf courses on groundwater quality in Oregon. Ms. Patton also states that DEQ may have concerns about the proposed mechanism for sewage treatment and disposal for a resort community. Ms. Patton also said that "DEQ requires a permit for discharge of treated sewage to either a surface water body or to the subsurface. In the permit application process the applicant is required to provide sufficient information to demonstrate that the wastewater discharge will not create a significant adverse impact to either groundwater or surface water."
- O. This is the same document as Exhibit A. of Exhibit 260.
- P. Letter from Eagle Crest Agent, Charles C. Brown, offering one year's free cable service and hookup in return for the release of the covenants and restrictions of Canyon River Territories for properties acquired by Eagle Crest.
- Q. Letter from Martha Pagel, Director of Water Resources Department dated September 14, 1992. This letter has been submitted into the record by many parties.
- R. 1991 New Wells and Irrigation Permits for Central Electric Cooperative, Inc. This document shows that CEC added 65 irrigation pumps and 31 wells to its electric service system in 1991.

- R-1. National Geographic Article on Water that points out that wells that once had an abundant supply of water are now going dry.
- S. Letter from Bill Blosser to L. Stickel, Chair of Water Resources Commission regarding Parrot Mountain lawsuits because land use permits were issued when a water source was not assured.
- T. Eagle Crest as Plaintiff

T-1, T-2 & T-3 Correspondence pertaining to Canyon River Territories Building and Use Restrictions

- 8. A document submitted by Sandra Sands on November 3, 1993 entitled "Overview of Oregon's Statewide Planning Goals" (Exhibit 261). This document contains the following exhibits:
 - 1. Testimony prepared by Gladys Biglor, Wildlife Biologist, dated October 22, 1992.
 - 2. Bend Municipal Golf Course Study prepared for BLM. This document states that the golf course would use up to 1,000,000 gallons of water per day and stated that Peck's milkvetch is normally found west of the Deschutes River.
 - 3. Bureau of Reclamation - Department of the Interior report regarding groundwater. This document is generally consistent with statements made in the Newton and Gonthier groundwater studies.
 - 4. Oregon water law - This is the ARLU-DECO testimony on water that was apparently presented to the State Water Resources Department in June of 1993. This document has been discussed elsewhere in this decision.
 - 5. Letter to Anne Squier, Sr. Advisor, Natural Resources from Sandra Sands expressing concerns about Eagle Crest's expansion plans.
 - 6. Letter to Martha Pagel, Dir. Water Resources Dept. requesting protection of ground and surface waters "in accordance with Goal 5 mandates." Ms. Sands requested an inventory of groundwater resources prior to authorization of additional water use by Eagle Crest.

7. ARLU DeCo Water Testimony presented during Goal 8 Mapping Process.
8. Letter from Brent Lake, DLCD, stating that surface and groundwater are Goal 5 resources, with the following attachments:
 - 8-B. Public Opinion Poll Summary in The Bulletin
 - 8-C. Agricultural Lands Article re resort mapping
 - 8-D. Farm Survey results indicate that some farmers blame golf courses and reports for using up valuable water that should go to irrigation uses
 - 8-E. 11/25/90 Bulletin article
9. Water Conservation editorial from The Bulletin dated May 7, 1993 stating that Deschutes County would probably maintain its drought status and that this would allow special water-use permits and other provisions to ration water, a prudent idea that would allow underground springs to recharge.
10. Golf Course Water Statistics Article. This article states that a well-maintained golf course in Hawaii or California uses 1.5 million gallons of water every day. Additionally, golf courses are generally built near waterways which means that pesticides and fertilizers from the course drain into the water, often harming local vegetation and marine life.
11. WaterWatch Testimony, 10/2/92, stating that water is scarce and that much of the water in the Deschutes comes from underground springs.
12. Canyon River Territories Petition
13. Testimony prepared by Dr. M. Turner re Economics.
14. Memo from C. Morrow re: Groundwater
15. 10/22/92 Sands Testimony
16. Testimony presented re: HB 2932 - Destination Resorts by Sandra Sands
17. Testimony presented to LCDC on 12/13/91 by Sandra Sands

18. ARLU DeCo Testimony 11/10/91
 19. Testimony presented to Senate Committee on Agriculture and Natural Resources
 20. Testimony presented to Senate Committee on Agriculture and Natural Resources
 21. BLM Grazing Allotments and Maps
 22. Oregon Natural Resources Council proposal
 23. Marge Turner testimony dated 10/8/92
 24. Bulletin article dated 6/27/91 regarding adoption of destination resort ordinance for EFU lands
 25. Cost of Living Article 8/5/92 The Spokesman
- K. Memorandum dated October 21, 1993 from Linda Burwell, 150 NW 83rd, Redmond, Oregon (Tax Lot 1400)(Exhibit 215). Ms. Burwell cites two concerns:
1. Utility companies need continued access to existing power poles and lines that border the south end of Cline Fall Oasis subdivision and the northern end of the Eagle Crest II property, on what used to be BLM land. Utility easements on Oasis subdivision lots do not match the location of power lines. Eagle Crest has requested to have no setbacks along the property boundary. Such development will preclude utility company access.
 2. Wayward balls will trespass onto Ms. Burwell's property is the golf course is sited on her property line with Eagle Crest Phase II, as proposed by Eagle Crest. Ms. Burwell will also lose the privacy of her back yard is the golf course is sited on her property line. Bill Lyche has offered to create mound with trees and other vegetation to block her property but she would also like to have the "normal 50 foot setback" honored.
- L. October 14, 1993 letter from Louie Pitt, Governmental Affairs and Planning Director for the Warm Springs Confederated Tribes (Exhibit 216). Mr. Pitt states that the Tribes have rights that extend off the reservation, reserved by the Treaty of 1855. Eagle Crest's development project must "protect materials

of particular cultural significance to the Confederated Tribes." Tribal Code 490.500.

FINDING: Mr. Pitt did not state whether there are any areas of particular cultural significance to the Confederated Tribes on Eagle Crest property. Two cultural sites identified by Deschutes County do exist in Phase I, but have not been disturbed by Phase I development.

M. October 14, 1993 Statement prepared by William Boyer, Chairman of The Alliance for Responsible Land Use: Deschutes County, 17575 Jordan Road, Sisters, Oregon 97759 (Exhibit 217). Mr. Boyer states:

1. The Applicant is unable to prove what long-term effects the "mini-city" will have on future water supplies with respect to quantity and quality. Information regarding quantity is currently being obtained by USGS and Eagle Crest expansion should await the results of that study.
2. Ground water should not be used for irrigating golf courses.
3. The use of the integrated septic tank system proposed is a potential threat to underground water. A treatment plant would solve the problem and effluent from the plant could be used to irrigate one of the golf courses.
4. There is no public need for more golf courses and destination resorts in a county glutted with such facilities.
5. Eagle Crest will alter the character of the surrounding area by creating a mini-city with traffic, congestion, increased wildlife road kill and commercial areas. This is prohibited by the County's destination resort ordinance. Once developed, there will be pressure for the area to become a city.
6. A \$600,000 public subsidy of the Highway 126 and Clíne Falls Road interchange is intolerable.
7. There is no indication that conservation of energy is to be built into the development.

N. September 29, 1993 letter from A. H. McCloskey, 1/5 Share Owner in residence at Eagle Crest (Exhibit 218). Mr. McCloskey states that there is a "very apparent problem with the present sewage/septic process now being utilized with the existing volumes. Any additions would surely create a severe overload and cause unsanitary environmental impact on the area. I would

hope that the county would make sure than an adequate, appropriate sewage system would be designed and installed prior to a full permit being issued."

- O. Report from Marjorie S. Turner, PhD., Professor Emeritus, Department of Economics, San Diego State University, P.O. Box 8005, Sister, Oregon 97759 (Exhibit 219). Dr. Turner analyzed the Hobson & Associates report submitted by the Applicant and made comments that are discussed in the Required Findings section of this decision under the DCZO 18.113.070 (C)(c) heading.
- P. October 14, 1993 letter from Virgil L. Harper, Route 1, Box 332, Terrebonne, Oregon 97760 (Exhibit 220) that states:
 - 1. Will Eagle Crest meet the County's requirement that sewage be put to beneficial use if it pumps its effluent to Redmond's treatment plant?
 - 2. If sewage is pumped to Redmond, a sewage line will need to cross the Deschutes River. I assume this couldn't happen as this portion of the river is a scenic waterway. If it is run along or under the highway, will the local taxpayers incur a greater tax burden? As Redmond's sewage system is "maxed out," will local taxpayers be required to pay for improvements to Redmond's system to process Eagle Crest effluent?
 - 3. What happens if there is a drought and there is not enough water to serve residents? Is the County legally responsible as it has allowed development to take place when they have seen and been made aware of warning signals, such as reduced well levels on existing wells? The County is responsible for protecting the water supply of its current citizens for future needs.
 - 4. Why will it take the State Water Resources geologists 3 years to complete a study to determine if there are ample water supplies and it takes only days for the hired experts to determine there is adequate water?
 - 5. Who owns the water in the aquifer that Eagle Crest wants to tap into?
 - 6. Farming practices and destination resorts are not compatible. Adjoining BLM land is leased to a cattle owner for grazing. Cattle can't read No Trespassing signs and they often go through fences. Mr. Harper infers that the cattle owner will be sued by Eagle Crest for trespass, as Eagle Crest has sued the Sands family because they allegedly rode a horse on an Eagle Crest golf course.

Q. October 22, 1993 letter from Maret Pajutee, PO Box 801, Sisters, Oregon 97759 (Exhibit 221), with exhibits, stating:

1. Public need should be a major factor in the consideration of developmental request that could negatively influence public water resources. It is disturbing that Deschutes County processes land use applications without adequate water supply information. The Eagle Crest application should not be approved without the complete results of the County hydrology study.
2. Eagle Crest should be required to reuse waste water. Septic tanks have the potential of polluting groundwater. Watering golf course with ground water is an irresponsible waste of natural resources.
3. There can be little doubt that the expansion of Eagle Crest will affect the northerly moving aquifer, reduce discharge of the aquifer to the Deschutes and ultimately add to the cumulative adverse effects to the Columbia River.

FINDING: The Hearings Officer finds that the expansion of Eagle Crest will reduce discharge of the regional aquifer into the Deschutes River and will ultimately add to the cumulative adverse effect to the Columbia River. This fact will be considered in determining appropriate mitigation measures for fish and wildlife damages caused by the resort.

4. The Deschutes River displays moderate to severe non-point pollution which adversely affect fish and aquatic life. The County must consider the cumulative effects of allowing more water use, more toxic golf course chemicals and more untreated human sewage waste next to the river.

Ms. Pajutee's exhibits are:

- A. 10/17/91 Water Resources Department Interoffice Memo from Donn Miller to Steve Brown. This document is discussed below.
- B. 10/22/92 letter to Jen Twinning, Executive Director of ARLU-DeCo from Tom Throop, Deschutes County Commissioner.
- C. 9/14/92 letter from Martha Pagel, Director of the Oregon Water Resources Department, referenced and discussed above.

- D. 1988 Oregon Statewide Assessment of Nonpoint Sources of Water Pollution by Water Quality Division of Oregon Department of Environmental Quality.
- R. Document entitled "Summary of Water Watch Objections to Eagle Crest Permit" presented by William Boyer (Exhibit 222):
 - 1. The groundwater resource of the Deschutes Basin is poorly understood and not as closely regulated as surface water.
 - 2. The Applicant's technical water report is defective.
 - 3. The proposed use of water will deplete flows and adversely affect water quality and instream uses in the Deschutes River.
 - 4. The summary then contains a number of arguments directed to the Water Resources Board.

October 21, 1993 letter from WaterWatch of Oregon (Exhibit 223), with exhibits, stating that Deschutes County should not approve the Eagle Crest expansion until the ground water study of the Deschutes basin is completed as ground water resources in the Deschutes basin are poorly understood. WaterWatch points out that individual domestic and small industrial uses are exempt from regulation, allowing these uses to place a growing demand upon the area's ground water resources. WaterWatch points to the experience of Yamhill County, where the Parrot Mountain area was developed with County approval, in the face of evidence that groundwater supplies were inadequate. Portions of the area were withdrawn from further groundwater appropriations by the State and takings claims resulted. There is now pressure to build a municipal water system to serve area residents, contrary to land use planning policies. WaterWatch enclosed its June 30, 1993 letter of objections to the Applicant's technical water report that was submitted to the Oregon Water Resources Department and a February 29, 1992 letter from William Blosser to Lorna Stickel, Chair of the Water Resources Commission regarding the Parrot Mountain ground water situation.

- S. Written Statement of Carrie Carmella (Exhibit 224), 152 S. Canyon Drive, Redmond, Oregon 97756. Ms. Carmella opposes the Eagle Crest expansion and states:
 - 1. Eagle Crest will be a mini-city located outside of the Redmond Urban Area Growth Boundary that will impact the Redmond Urban Area. The Redmond Urban Area Comprehensive Plan should be considered relevant to the Eagle Crest application because of the immediate effects

a mini city will have on local resources because it is outside of the UGB. Ms. Carmella cites a number of policies from that Comprehensive Plan.

FINDING: The Redmond Urban Area Plan and implementing ordinances do not apply to land uses that occur outside of the Redmond urban growth boundary. This destination resort application is subject to review for compliance with Deschutes County land use ordinances and Comprehensive Plan, not the Redmond urban area plan and land use ordinances.

2. The groundwater study should be completed before these applications are approved. The water rights of farmers and existing users must be protected and water should not be squandered for golf course irrigation.
 3. Redmond's sewage treatment plant is at or near capacity. If Eagle Crest connects to the system, Ms. Carmella and Redmond sewer users would be required to pay for the cost of expanding the sewage system.
 4. Urban sprawl causes higher public service and facilities costs that are borne by taxpayers.
 5. Improvements need to be made to the intersection of US Highways 97 and 126 in Redmond before an interchange for Cline Falls Road and Highway 126 is constructed with public funds to benefit Eagle Crest.
 6. Development of Cline Buttes will harm the natural beauty of this natural feature.
- T. Numerous documents submitted by Sandra Sands, described as follows:
1. May 3, 1993 letter from Ms. Sands to Representatives Bob Repine and Ray Baum regarding HB 2932 re destination resorts (Exhibit 225). Ms. Sands stated that Eagle Crest has no public services, depends on a septic system and ground water and uses 1.5 million gallons-per day to irrigate each of its golf courses. Neighboring wells have dropped five to ten feet but Water Resources will not act until well levels have dropped 25 feet. Ms. Sands also expressed concern of public funding for the proposed Highway 126 overpass, fecal coliform contamination, impacts to wildlife and the large increase in activity in the area of the resort from the expansion.
 2. Ms. Sand's 1992 testimony to Deschutes County Hearings Officer Denise Frisbee. The main points raised were:

- a. Eagle Crest has not assured development of recreational and key facilities by surety bonding, as required by County ordinance.
 - b. Cumulative negative impacts to EFU lands in the area of Eagle Crest due to depletion of ground water, septic disposal, traffic impacts, changes to rural quality of life and the impact of creating a new city in the rural EFU land of Deschutes County. This violates the purpose of the EFU zone to protect agricultural lands for farm use.
 - c. The destination resort expansion will occur on land that was formerly productive EFU farm land. Now that the land is irrigated it resembles lush high value farm land.
 - d. The proposed Highway 126 overpass will expend public dollars for a facility that is needed only because of the existence of the Eagle Crest resort. This facility will adversely impact the character of the surrounding area.
3. Memorandum from Ms. Sands to the Deschutes County Hearings Officer dated 10/22/22 (sic) (Exhibit 227) stating:
- a. The County has not finished mapping destination resorts as required by Goal 8 and the County's destination resort ordinance. The County has failed to minimize adverse impacts on surrounding lands and to require financial assurances.
 - b. The County has not assessed the recreational needs of the citizens of the state and its visitors. This assessment is needed to assure compliance with the purpose of Goal 8. Recreation planning must be coordinated with private enterprise and be implemented in such quantity, quality and location as consistent with the availability of natural resources.

FINDING: Deschutes County has held hearings and made voluminous findings documenting compliance with Goal 8 for the destination resort mapping process. The subject property was properly designated for destination resort zoning, according to that process. If the County failed to properly assess needs in that process, the appropriate time and place to have raised that objection would have been in an appeal to the Land Use Board of Appeals, after that decision had been made by the Deschutes County Commission. Foland v. Jackson County, 311 Or 167, 807 P2d 801 (1991).

- c. Ms. Sands believes that approval of Eagle Crest's expansion will violate Goal 5 because the County has not inventoried the quality and quantity of Goal 5 resources, especially ground water supply.
- 4. ARLU - DeCo Exhibits identified by ARLU-DeCo as exhibits numbered:
 - A. 10/17/91 Water Resources Department Interoffice Memo from Donn Miller to Steve Brown (Exhibit 228) regarding changes requested to Eagle Crest's application for a water rights permit for three wells on Cline Buttes and an appropriation of 9.12 cfs. Eagle Crest sought approval to locate the wells closer to the Deschutes River as there was insufficient water in the Deschutes Formation aquifer in the locations selected. The local groundwater is in motion to the north, discharging to the river beginning in the area of Tetherow Bridge so the relocation of the wells will be of little consequence to the river. Relocation of the wells will result in the diversion of water from the intended source aquifer and the hydraulic nature of the aquifer will allow for very high specific capacities which would prevent interference with neighboring wells. The Eagle Crest applications were erroneously approved without self-reporting and resource management conditions.
 - B. 4/26/91 Water Resources Department Interoffice Memo from Donn Miller to File (Exhibit 229) regarding review of Eagle Crest's application for a water rights permit for three wells on Cline Buttes and an appropriation of 9.12 cfs. Mr. Miller states that the Deschutes River loses water between Bend and Cline Falls due to porous lava. Little or no water is lost or added between Cline Falls and Tetherow Bridge. Below Tetherow Bridge, 4 miles from Eagle Crest, the river gains much flow from the regional aquifer. The head in the nearby Eagle Crest well is about 150' below the nearby stream level so the project should not have a significant surface water interference. The wells are not hydraulically connected to the Deschutes River, as defined by state rules. Little is known about the long-term water level response in the aquifer. A more detailed examination is needed. In grander terms, this development will almost certainly impact the flows of the Deschutes River downstream. The impact will be minute since it can not be greater than the diverted quantities. The influence will be delayed due to the slow nature of groundwater movement. The

impact will probably not be measurable but can be inferred through conceptualization of the setting.

- C. Portion of Eagle Ridge Development Corporation application for water rights (Exhibit 230) and three wells, received on 2/26/91, for the proposed use of year round irrigation, including golf courses and domestic use for 500 dwelling including irrigation of up to .5 acres per dwelling.
- D. January 28, 1993 Letter from Beverly Clarno, Majority Whip of Oregon House of Representatives to Martha Pagel, Director of Water Resource Department with enclosure of a January 26, 1993 letter from Jerol E. Andres of Eagle Crest. (Exhibit 231) Mr. Andres sought Ms. Clarno's assistance in obtaining water rights approval for water rights for the resort's proposed expansion. Ms. Clarno referred the request to Martha Pagel for response.
- E. 7/6/92 Memorandum from Steve Brown to Fred Lissner directing Mr. Lissner to expedite review of Application G-12905 filed with Water Resources Department (Exhibit 232).
- F. 2/9/93 Letter to Steve Brown of Oregon Water Resources Department from William Lyche and Thomas Walker (Exhibit 233) thanking him for his assistance with the pending groundwater appropriation application. This letter requests that Mr. Brown change the application from quasi-municipal uses to domestic water use for approximately 900 dwelling units, including irrigation of lawns and gardens, not to exceed .5 acre per unit.
- G. June 1992 Public Opinion Survey on Rural Land Issues prepared for the Deschutes County Board of Commissioners by Western Attitudes of Lake Oswego, Oregon (Exhibit 234).
- H. Testimony of ARLU-DECO on Water Issues in Goal 8 Mapping (Exhibit 235) previously presented to Deschutes County Board of Commissioners and Oregon Water Resources Department.
- I. Eagle Crest Phase II Testimony by ARLU-DECO on Water (Exhibit 236) that was apparently submitted to the State Water Resources Department regarding State issuance of proposed water permit G-12905 on 6/29/93, including 9/14/92 Martha Pagel letter. Both documents were discussed, above.

- J. Article entitled "Habitat Degradation May Push Grouse to Extinction" from The Bend View, April 15, 1993 (Exhibit 237)
- L. Letter dated May 31, 1993 from Maret Pajutee to Richard Benner, Director DLCD; Doug White, Reviewer for DLCD; and George Read, Deschutes County Planning Director (Exhibit 238) regarding periodic review by DLCD and claiming that Deschutes County has failed to adequately protect riparian zones by narrowly defining riparian zones.
- M. Letter dated January 3, 1993 from Maret Pajutee, Biologist, to Michael Rupp of DLCD (Exhibit 239) regarding Deschutes County's Wildlife Plan and Ordinances raising concerns about the County's protection of riparian habitat and zones. Ms. Pajutee enclosed an article entitled "Public Asks for Greater Wildlife Protection" from The Nugget of June 3, 1992, an article entitled "Opportunities and Constraints for Development and Conservation: Teller County/Woodland Park Growth Management Plan," a May 26, 1992 letter from Ms. Pajutee to the Deschutes County Board of Commissioners and Planning Department regarding riparian areas, April 22, 1992 letter to Deschutes County Planning Commission and Department regarding wildlife habitats, and article entitled "Wildlife Habitats in Managed Forests" by Jack Ward Thomas and excerpts from the Deschutes County River Study.

Unlabelled Bend Bulletin articles entitled "Alarms Sound on Fish" dated March 9, 1993 (Exhibit 240) and "Winter Meant Death to Deer" (Exhibit 241) dated March 31, 1993 were submitted into the record. A copy of pages from the 1988 Oregon Statewide Assessment of Nonpoint Sources of Water Pollution prepared by the Water Quality Division of DEQ (Exhibit 242) was also submitted.

- S. October 28, 1993 letter from Clyde Everton (Exhibit 243) making the following points:
 - 1. At the October 14, 1993 hearing an Eagle Crest representative (Mr. Andres) testified that Eagle Crest relies upon the Deschutes County Sheriff's Office for police protection and general security. Mr. Everton questioned the ability of that office to handle the increased workload that an Eagle Crest expansion would cause. The Sheriff is asking for a levy. If that levy fails, how can the Sheriff adequately police the Eagle Crest expansion? Further information is needed on the Eagle Crest security staff.

2. Is the proposed septic system safe? Is it adequate? What effect will it have on the Deschutes River? The smell of sewage at Eagle Crest's Phase I golf course is strong. This is a definite indication that the system has not functioned properly in the past. Has the problem been solved?
 3. Evidence has been submitted to demonstrate that the fecal count in the Deschutes River is considerably higher than above Eagle Crest. At what count is this a critical problem? Shouldn't there be an unbiased review of the system?
 4. Land use approval of Eagle Crest's expansion should await completion of the USGS ground water study.
 5. Does the rural fire district in which Eagle Crest is located perform up to ISO and FPA standards?
 6. Eagle Crest's assertion that the average salary of Eagle Crest employees is \$27,500 is misleading. The median salary and breakdown of wages of employees is needed to adequately assess the economic impact of Eagle Crest upon Deschutes County.
- T. October 25, 1993 letter from James L. Goodell (Exhibit 244), with attachment. Mr. Goodell says:
1. Eagle Crest should not be given BLM land tax free.
- FINDING:** Under the tax laws of the State of Oregon, the Eagle Crest Phase II property will be subject to ad valorem taxation, as is any other privately owned property, as it is now owned by a private party, not by BLM.
2. Eagle Crest should pay for the Highway 126 overpass.
 3. Consider SB 1010 which was passed and the results of the water test that showed an increase in fecal coliform counts in the Deschutes River just below Eagle Crest.
 4. Eagle Crest may not be able to use river water as the pumping system may not be allowed in a scenic riverway.
 5. Eagle Crest Phases I and II are uphill from residential areas and the Deschutes River. With heavy use of fertilizers and pesticides on the golf courses and lawns, what happens to the runoff? These chemicals

are harmful to deer and rodents that eat plants. Golden eagles in turn eat contaminated rodents. You must remember House Bill 2538.

6. More studies of habitat for Golden Eagles in the Deschutes River corridor should be conducted.
7. Eagle Crest should put up a \$100 million bond because they have gone bankrupt before.

FINDING: This statement, that Eagle Crest declared bankruptcy, was not supported with any documentation. Documentation of such a fact is fairly easy to obtain. Additionally, the record of prior approvals indicate that a person who had granted an option to purchase land for the resort was a debtor in a bankruptcy matter. It may be that Mr. Goodell believes that this person's bankruptcy was an Eagle Crest bankruptcy, which it was not. For these reasons, the Hearings Officer finds that there is no credible evidence that Eagle Crest ever declared bankruptcy.

- U. Letter from Dorothy C. Schoonmaker (Exhibit 245) dated November 3, 1994 (sic). Ms. Schoonmaker states that an increase from 563 to 1,413 units on desert land, with no positive proof of sufficient water and with a septic disposal system is not in the public interest.
- V. Letter from Kathleen Plain, 5944 NW Zamia, Redmond, Oregon 97756 (Exhibit 246). Ms. Plain lived in Eagle Crest from May 1, 1990 to September 29, 1991. She opposes resort expansion because:
 1. There was a lack of water pressure at the resort, making it impossible to wash or shower.
 2. The smell of sewage was extreme in the area of the leach lines.
 3. Very few of the residential lots have been built on. When they are, the demand on the water and sewer systems will be much greater.
 4. The new development will demand large amounts of ground water. This may have an adverse affect on neighbor's wells.
 5. Having numerous septic tanks and leach lines on the hill, without a treatment plant, presents a potential pollution problem.
 6. The public will bear the greatest cost on Highway 126.
 7. Deschutes County doesn't need more low-paying jobs.

8. The resort will use huge amounts of fertilizers for its golf courses and homes.
 9. Numerous Eagle Crest homes are for sale and property values have dropped.
- W. October 22, 1992 letter from Joanne VanMeter, 67670 SW 75th Street, Redmond, Oregon 97756 (Exhibit 247). Ms. VanMeter recommends denial of the Eagle Crest applications for the following reasons:
1. The applications "fail to provide Burden of Proof as required in 18.113.070 (N) and (P).
 2. Ms. VanMeter lives approximately 1/4 of a mile from Eagle Crest Phase I. Ms VanMeter complained about the following forms of pollution from Eagle Crest: noise pollution of heavy construction equipment; light pollution in Phase II area, light pollution from Phase I; dust pollution for "dust bowl" effect created by construction activities and high winds; visual pollution of her view of Cline Buttes with numerous structures.
- X. Opposition Statement from Frances Everton (Exhibit 248). Ms. Everton questioned how staff and the Hearings Officer can form an educated opinion about whether to allow development with septic tanks for a resort located on the banks of a river, without information from DEQ or the Deschutes County Environmental Health Division. Ms. Everton also inferred that Deschutes County should have hired its own economic consultant and should have addressed the issue of the working poor. Ms. Everton included an October 28, 1993 editorial from The Bulletin which she says "directly pertains to the responsibility of the County." The editorial chastises the County's Community Development Department for falling behind on restaurant health inspections.
- Y. October 29, 1993 letter from Howard Paine (Exhibit 249).
1. The water conservation plan submitted by Eagle Crest will be ineffective because the majority of users will be overnight guests. There will be no financial incentive for the guests to conserve water. Taking waste water from each unit and home to water the golf course is the only effective way to conserve water.
 2. Eagle Crest cannot meet the requirements in 18.113.070(D). The displacement of wildlife, especially deer from loss of habitat and encroachment of human activity cannot be mitigated. 75 deer cannot be displaced or replaced by some other species, such as chipmunks.

3. The high usage of herbicides, pesticides and commercial fertilizer combined with the fecal coliform and household chemicals that are being released into the ground will impact the fish in the Deschutes River.
 4. The Eagle Crest resort will significantly increase the cost of farm or forest practices on surrounding lands by increasing land and housing costs in the vicinity of the resort.
- Z. Letter dated October 29, 1993 from C. R. Lindsay, 7107 SW Wickiup Avenue, Redmond, Oregon 97756 (Exhibit 256). Mr. Lindsay states that he lives on property that adjoins Eagle Crest, Canyon River Territories and BLM land. Mr. Lindsay favors approval of the applications for the following reasons
1. New Eagle Crest residences, at the rate of 100 per year, would be only 1/36th of the residences being built in Bend and Redmond so that they will have a minimal impact on the area's water supply.
 2. Traffic problems may be due to immigrants to Central Oregon, rather than by Eagle Crest traffic.
 3. The Deschutes County Assessor advised Mr. Lindsay, many years ago, that the proximity of Eagle Crest would not raise Mr. Lindsay's property tax bill. Eagle Crest keeps my taxes low because they pay the lion's share of taxes.
 4. In future years, Central Oregon will be thankful for tourism jobs.
 5. The offensive drainfield is in Canyon River Territories, not in Eagle Crest.
 6. The bald eagles were still nesting here four years after Eagle Crest started building. The balds and the golden eagles left when the rabbit population was drastically reduced, supposedly as a result of Canyon River Territory new residents who chose to shoot rabbits and raccoons instead of fencing their gardens. Likewise, the deer population dwindled when these residents cut through BLM fences to affect more convenient access to the land for their horseback riding and cross-country vehicle use, although the land was leased to a cattleman.
- AA. October 21, 1993 letter from Joe Hannan, City Manager of Redmond (Exhibit 257) expressed support for the development.

- BB. October 22, 1993 letter from **Bob Eberhard**, 729 North Canyon Drive, Redmond, Oregon 97756 stating support of Eagle Crest's expansion request because destination resorts are allowed uses; Eagle Crest is an excellent corporate citizen and has built a first class resort; Eagle Crest is a substantial employer in the Redmond area; only 1/2 of 1% of the County is developed with destination resorts; this application is supported by the City of Redmond, the Redmond Chamber of Commerce and the business community at large.
- CC. October 21, 1993 letter from **Paul Barnes** of Central Oregon Mortgage, Inc. (Exhibit 259) supports the Eagle Crest expansion. Mr. Barnes states that Eagle Crest has been a major economic force in the County and has been a good neighbor. The expansion will enhance Deschutes County and the State of Oregon.
- DD. October 27, 1993 letter, with attachments, from **C.T. Thomas** (Exhibit 264). Mr. Thomas states that "exploitation of Public Lands by a private enterprise for profit gain should not be allowed as in the case of Cline Butte Utilities (Eagle Crest). The documents submitted include:
1. Notice of Environmental Impact, Cline Butte Reservoir, in the 8/18/93 edition of The Spokesman.
 2. Environmental Assessment by BLM regarding proposed Cline Butte Reservoir dated 8/5/93.
 3. Letter from C.T. Thomas to Phil Paterno dated 8/28/93 objecting to approval of use of BLM land for Cline Butte Utilities' reservoir.
 4. Letter from James Kenna to C. Thomas dated September 22, 1993. Mr. Kenna stated that the reservoir is intended to provide a reliable source of potable water for fire protection purposes at the Eagle Crest resort. A gravity system is more reliable in the event of a fire than is a system that is reliant upon pumps which require electricity. Eagle Crest installed electric and telephone conduits under Cline Falls Highway, not water lines. The Eagle Crest water lines will be located near an existing utility line and access roads. The reservoir will be partially buried and screened by surrounding vegetation.
 5. Letter from C. T. Thomas to James G. Kenna dated 9/30/93. Mr. Thomas states that Eagle Crest intends to use the reservoir for domestic and irrigation purposes and to increase water pressure in their water system. Public land should not be used to irrigate golf courses and to store water for domestic use in Eagle Crest. Mr. Thomas asked Mr. Kenna to review photos of the pipes that were placed under Cline Falls

- Highway which he claims are obviously water pipes, not conduit for electric and telephone lines.
6. Eagle Crest Phase II Domestic Water Supply System Master Plan, March 1992.
 7. Letter from Tom Blust, Deschutes County Engineer to C.T. Thomas dated October 20, 1993 stating that all utility crossing work on Cline Falls Highway was performed according to the permit and complied with County codes.
 8. Letter to George Kolb from Steven R. Hannas (W&H Pacific) dated 10/14/93 stating that a bank of conduits were placed under Cline Falls Highway for future power, telephone, cable television and "to allow for possible future needs such as irrigation, natural gas, domestic water, drainage, or sewage collection system crossings. These conduit banks consisted of four 4-inch PVC conduits, one 6-inch PVC conduit and one 8-inch PVC conduit. These conduits can be used as sleeves or piping to allow future utilities to be placed under the roadway, without disrupting the new street improvements. In addition to the conduit banks, a single 10-inch PVC line (C-900 PVC pipe) was installed across Cline Falls Highway. This line was placed for future needs and could connect the existing Eagle Crest I domestic system to the proposed Eagle Crest II addition. This domestic water connection would connect and strengthen both phases of Eagle Crest domestic and fire protection water systems and improve reliability."
- EE. October 29, 1993 letter from Oregon Trout (Exhibit 265). Oregon Trout states that the Deschutes River, north of Bend, maintains a population of brown, native rainbows and rare bull trout. Oregon Trout believes that Eagle Crest Phase II could easily damage the fishery by its use of ground water, surface water pumping from the Deschutes River and septic systems. The group believes that ground water hydrology is complicated but that the withdrawal of several millions of gallons of water a day could affect spring flow rates and hydraulic pressure miles away. The Eagle Crest section of the Deschutes gains most of its irrigation season flow from spring water flowing into the river between Bend and Lake Billy Chinook. Ultimately, flow levels affect anadromous fish in the Columbia River. The Draft Recovery Plan for endangered Columbia River salmon calls for a moratorium on further water withdrawals from the Columbia River basin. The group is also concerned about the possible impact of irrigation effluent on river fish. Oregon Trout

states: "It is our opinion that a development of this size could never mitigate its impact on this fishery and should not be built."

V. REQUIRED FINDINGS

The Hearings Officer has recited the provisions of law that govern approval of the conceptual master plan of Eagle Crest and the requested variance and has followed each provision of law with findings relating to that section. The Hearings Officer makes the following findings:

18.113.020 - APPLICABILITY

- A. The provisions of this chapter shall apply to proposals for the development of destination resorts, as defined in this title, in areas designated DR by the County zoning maps. The provisions of this chapter shall not apply to any development proposal in an area designated DR other than a destination resort.**
- B. When these provisions are applicable, they shall supersede all other provisions of the underlying zone. Other provisions of the zoning ordinance, made applicable by specific map designations such as the SMIA, AH, CH, FP or LM, or otherwise applicable under the terms of the zoning ordinance text shall remain in full force and effect, unless otherwise specified herein.**

FINDING: The subject proposal is for the development of a destination resort as defined by this ordinance. Thus the provisions of Chapters 18.16 (EFU Zones) and 18.32 (MUA-10 Zone) are not applicable to this application. The provisions of Chapter 18.84 (Landscape Management) will be applicable to each structure which is constructed within the LM Combining Zone.

18.113.025 - APPLICATION TO EXISTING RESORTS

Expansion proposals of existing developments approved as destination resorts shall meet the following criteria:

- A. Meet all criteria of this chapter without consideration of any existing development; or**
- B. Meet all criteria of this chapter for the entire development (including the existing approved destination resort development and the proposed expansion area),**

except that as to the area covered by the existing destination resort, compliance with setbacks and lot sizes shall not be required.

If the Applicant chooses to support its proposal with any part of the existing development, Applicant shall demonstrate that the proposed expansion will be situated and managed in a manner that will be integral to the remainder of the resort.

FINDING: The Applicant has chosen to pursue option B. Thus, this application will be considered to be an expansion of an existing resort, and all criteria, other than lot sizes and building setbacks, must be met for all areas of the development.

The Applicant is proposing two areas of expansion to the existing resort, hereafter identified as Eagle Crest Phase I (Phase I). These include the 710 acre area to the west of Cline Falls Highway identified as Eagle Crest Phase II (Phase II), and the 36 acre area contiguous to Phase I on the east side of Cline Falls Highway identified as the Canyon River Territories (CRT) Expansion Area. The CRT Expansion Area is considered by the Applicant to be a part of Phase I, as it is directly contiguous to Phase I and ties directly into existing developed areas within Phase I.

Phases I and II are adjacent to one another, but are separated by the Cline Falls Highway. This configuration results in 544 acres within Phase I (including the CRT Expansion) on the east side of the Highway, and 710 acres of new resort area on the west side. Eagle Crest Partners, Ltd. is responsible for resort operation and the ownership of resort facilities will be transferred to the Cline Butte Utility Company. Lots within Phase I are owned by many different persons and entities. A significant part of the property boundaries for each phase adjoin Cline Falls Road. Almost all of the Cline Falls Road frontage of each phase adjoins the frontage of the other phase. For this reason, the Hearings Officer finds that the expansion area can be managed and operated in a manner which is integral to the remainder of the resort and such management has been made a condition of approval of the Master Plan. This condition will require the Applicant to assure owners and visitors to either phase of the Eagle Crest Resort complete access to all areas open to use by owners and visitors in the other phase.

18.113.030 - USES IN DESTINATION RESORTS

18.113.030 Uses in Destination Resorts.

The following uses are allowed, provided they are part of and are intended to serve persons at the destination resort pursuant to this section and are approved in a final master plan:

- A. Visitor-oriented accommodations designed to provide for the needs of visitors to the resort:
- a. Overnight lodging, including lodges, hotels, motels, bed and breakfast facilities, time share units and similar transient lodging facilities;
 - b. Convention and conference facilities and meeting rooms;
 - c. Retreat centers;
 - d. Restaurants, lounges and similar eating and drinking establishments; and
 - e. Other similar visitor-oriented accommodations consistent with purposes of this chapter and Goal 8.

FINDING: The proposed Master Plan for Phases I and II includes overnight lodging, convention and conference facilities in its hotel and a restaurant and lounge (Phase I). Area 11 of Phase II also includes what is called a "business development center." The Applicant has not explained what types of activities would be conducted in this center. If the Applicant wishes to build a facility for a corporate retreat center, this is an allowed use. The Applicant also obtained approval to build a temporary conference center in 1992. That center was not shown on the CMP. If it has not been constructed, the permit for that use has lapsed. No activities that might qualify as "similar visitor-oriented accommodations" were mentioned by Applicant, therefore, none are authorized by this approval.

- B. Developed recreational facilities designed to provide for the needs of visitors and residents of the resort;
- a. Golf courses and clubhouses;
 - b. Indoor and outdoor swimming pools;
 - c. Indoor and outdoor tennis courts;
 - d. Physical fitness facilities;
 - e. Equestrian facilities;
 - f. Wildlife observation shelters;
 - g. Walkways, bike paths, jogging paths, equestrian trails;
 - h. Other similar recreational facilities consistent with the purposes of this chapter and Goal 8.

FINDING: Equestrian facilities, physical fitness facilities, a golf course, swimming pools, tennis courts, walkways and bike paths exist in Phase I of Eagle Crest. The Applicant has established one of two proposed golf courses in Phase II. The Applicant proposes to build bicycle paths and a second golf course in Phase II. The Applicant has also proposed a "combined development area" (Area 11) that the Applicant says could include, but not be limited to, "hotel, sports facilities, conference center, business development center, pool, tennis courts, golf course

related facilities and residential development." The Applicant does not list other uses that might be conducted in this area. The Applicant shall accurately identify uses for this area in further detail as a condition of FMP approval.

C. Residential accommodations;

- a. Single-family dwellings;
- b. Duplexes, triplexes, fourplexes and multi-family dwellings;
- c. Condominiums;
- d. Townhouses;
- e. Living quarters for employees;
- f. Time share projects.

FINDING: The proposed resort will include single-family dwellings, multi-family dwellings, condominiums and time share projects. No living quarters have been provided for employees.

D. Commercial services and specialty shops designed to provide for the visitors to the resort:

- a. Specialty shops including, but not limited to delis, clothing stores, book stores, gift shops and specialty food shops;
- b. Barber shops and beauty salons;
- c. Automobile service stations limited to fuel sales, incidental parts sales and minor repairs;
- d. Craft and art studios and galleries;
- e. Real estate offices;
- f. Convenience stores;
- g. Other similar commercial services which provide for the needs of resort visitors and are consistent with the purposes of this chapter and Goal

FINDING: There are currently a number of existing commercial uses located within Phase I. These include a gift shop, convenience store, pro shop and resort real estate sales office. The Applicant also sells golf items and refreshments in its Phase II golf clubhouse. The Applicant has not listed all commercial services and shops that currently exist in the development but the Hearings Officer has visited the subject property and finds that all of the current commercial service and specialty shops that presently exist in Phase I and Phase II function as an integral part of the resort and provide services for visitors to the resort. The Applicant will be required to designate all currently existing commercial uses on the final master plan so that it is clear what commercial activities have been allowed by this approval.

The Applicant also plans to include commercial uses in the center of Phase II and in an area designated as "future commercial area." It is not known what types of uses might be sited in these locations. It is also unknown what type of traffic and utility service demands these commercial uses might generate, as the type of use is not identified. For instance, if the Applicant were to include a car wash, in conjunction with a service station as a "similar commercial service" the car wash would generate a significant demand for water and sewer services. The amount of traffic generated by commercial uses varies depending on the type of use selected. A service station or post office would place a greater traffic demand upon the area in which it is located than would a pro shop that is operated in conjunction with a golf course. The impacts of these uses upon the volume of resort traffic was not considered in the Applicant's traffic study. This is apparent when reviewing the traffic expert's descriptions of Phase I and proposed Phase II on pages 3 and 19 of the Kittelson & Associates, Inc. Traffic Impact Analysis document, Exhibit 9. The impact was not estimated in the sewer study. Page 5 of the sewerage master plan, Exhibit 26, lists commercial uses but does not list an estimated sewage contribution for these facilities. As discussed above, estimation of the impact of these uses is difficult to make without knowing what types of uses will be sited in the commercial areas. This information should be obtained and new estimates should be made.

The Applicant has previously obtained land use approval for commercial development in Phase I. Some of that development has not yet occurred, especially in the area that is shown on the Applicant's proposed master plan as "future commercial area." In CU-88-97, the Applicant obtained approval to add the commercial area to the resort master plan. Hearings Officer Greg Hendrix required the Applicant to submit a modified master plan that would include proposals for retail shops. No such plan was found by this hearings officer. The Applicant then amended the Master Plan in 1990. The 1990 plan also did not specify the commercial uses intended for this area. Since that time, the Applicant has obtained site plan approval for development of a temporary day care facility (CU-92-55) and a post office and convenience store (CU-92-21). The Applicant has gone forward with plans for the day care facility but has not constructed the post office and convenience store. The conditional use permit for the post office and convenience store appear to have expired.

- E. Uses permitted in open space areas generally include only those uses that, except as specified herein, do not alter the existing or natural landscape of the proposed open space areas. No improvements, development or other alteration of the natural or existing landscape shall be allowed in open space areas, except as necessary for development of golf course fairways and greens, hiking and bike trails, lakes and ponds and primitive picnic facilities including park benches and picnic tables. Where farming activities would be consistent with identified pre-existing open space uses, irrigation equipment and associated pumping facilities shall be allowed.

FINDING: The Applicant has included developed areas in the area designated as open space on its open space map, Exhibit 50. The designation of developed golf course areas is proper, according to this ordinance provision. The designation of the softball field, a tennis court and soccer field as open space is not. It also appears that the Applicant may have included areas around the stables that are used for parking and other stable related uses in the open space calculations. The Applicant will be required to revise its open space map to comply with the provisions of this section for all designated and accepted open space areas in Phase I and II of the resort.

F. Facilities necessary for public safety and utility service within the destination resort.

FINDING: Sewer and water utility service facilities are included within the resort boundaries, including pumps, wells and a drainfield. 1988 Master Plan approval for Phase I included a reserve area for future sewage plant construction. That area was removed from the plan and platted for housing units in 1990. Power lines and utility service lines also cross and serve the property. The Applicant should designate the location of all utility lines and easements that burden the property, including those granted by BLM and shall provide proof to the Planning Director, prior to FMP approval, that all development proposed in those areas is allowed by the terms of the easements granted.

G. Other similar uses permitted in the underlying zone consistent with the purposes of this section.

The Applicant has not applied for approval of any such uses. None are authorized by this approval.

H. Accessory Uses in Destination Resorts:

a. The following accessory uses shall be permitted provided they are ancillary to the destination resort and consistent with the purposes of this chapter and Goal 8:

1. Transportation-related facilities excluding airports;
2. Emergency medical facilities;
3. Storage structures and areas;
4. Kennels as a service for resort visitors only;
5. Recycling and garbage collection facilities;
6. Other similar accessory uses consistent with the purposes of this chapter and Goal 8.

FINDING: The resort includes storage facilities and garbage collection areas that are ancillary to resort uses. The resort also includes roads and bike paths that may be

considered transportation-related facilities. There are no emergency medical facilities or kennels within the resort and no such uses are proposed.

The Applicant has sited a day care center in its existing resort on property zoned MUA-10. The Applicant plans to move this center to the north, according to the 1992 conditional use application, to a piece of property zoned EFU. The Hearings Officer finds that this is a use that is a similar accessory use, provided that the center is limited to children of employees and guests of the resort.

FINDING: The Applicant may develop the resort for specifically listed uses only, other than similar uses approved in this decision. Any new uses that are desired as "similar" uses must be reviewed by Deschutes County Planning Division, according to ordinances then in effect. The Applicant has obtained numerous land use approvals for Eagle Crest development of Phase I. All previously approved master plans regarding resort development will be replaced at such time as the FMP for the resort is filed, except for the provisions of those approvals that established setback and lot sizes. The Applicant will, however, continue to be bound by the conditions of approval in any and all other land use actions relating to the resort property.

The Applicant has proposed a "business development center" as a possible use in Area 11, Phase II. This use may or may not qualify as an allowed use, depending upon what type of facilities are contemplated for the center. If the center is designed as a retreat for business conferences it would be permitted. If the center is intended to include professional offices for various businesses and to provide services for area businesses, such as a computer laboratory, teleconferencing facility, or classrooms, it would not be allowed in a resort setting. The Applicant has not provided any details about the nature of this proposed use. Approval of this application is not intended to authorize the construction of a business development center unless it provides only uses otherwise expressly allowed by the destination resort ordinance. No determination whether other possible business center uses might be allowed under the "similar use" sections listed above is possible at this time, as the Applicant has not defined the use.

18.113.040 - APPLICATION SUBMISSION - -

The authorization of a permit for a destination resort shall consist of three steps.

- A. Conceptual Master Plan and Conditional Use Permit for Destination Resort.** A conceptual master plan (CMP) shall be submitted which addresses all requirements established in this section. The CMP application shall be processed as if it were a conditional use permit under Chapter 22 of the Deschutes County Code, shall be subject to Sections 18.128.010, 18.128.020 and 18.128.030 of the Deschutes County Code and shall be reviewed for compliance with the standards and criteria set forth in this chapter.