

FINDING: DCZO 18.113.040 establishes a three step approval process for the authorization of a destination resort. These steps are: 1) Conceptual Master Plan (CMP); 2) Final Master Plan (FMP); and 3) Site Plan or Subdivision Review. The Applicant has applied for a Conditional Use Permit for Destination Resort Conceptual Master Plan. The purpose of this application is for the Applicant to demonstrate that all requirements of the DR Zone are currently met, or will be met through the imposition of conditions of approval. The provisions of DCZO Chapter 18.128, listed above, authorize the Hearings Officer to impose various conditions of approval and to require the posting of a performance bond to assure developments, as approved.

Once conceptual master plan development is approved, the Applicant must prepare and submit a Final Master Plan, which incorporates all requirements of the County approval for the CMP. The Final Master Plan will be reviewed by the Planning Director to determine if it complies with the approved CMP. The Planning Director has the authority to approve, deny, or return the FMP to the Applicant for additional information. If review of the FMP by the Planning Director involves discretion, it will be treated as a land use permit and will be processed in accordance with Title 22 of the County Code.

After the first two steps have been completed, each element or phase of development must receive additional approval through Site Plan Review (Chapter 18.124 and in some cases, Chapter 18.84 of Title 18) or Tentative Plat approval (Title 17). In addition to findings satisfying site plan or subdivision criteria, findings shall be made that the specific development proposal complies with the standards and criteria of this chapter and the FMP.

18.113.050 - REQUIREMENTS FOR CONDITIONAL USE AND CONCEPTUAL MASTER PLAN APPLICATIONS

FINDING: This section contains requirements for conceptual master plan applications. The application submitted by the Applicant substantially complies with all requirements of this section, with the exception of the items listed below. Modifications have been required to some of the documents, such as the open space map, to assure compliance with destination resort ordinance standards.

2. (B)(s) - An economic impact and feasibility analysis of the proposed development prepared by a qualified professional economist or financial analyst shall be provided which includes:
 1. An analysis which addresses the economic viability of the proposed development.

FINDING: The Applicant has provided an economic impact analysis (Exhibit 31) and a letter from the CEO regarding financing (Exhibit 39), but no independent

feasibility analysis or evidence of assurances that funding for the proposal has been secured. These documents do not, however, contain an analysis of the economic viability of the proposed development. Such an analysis would consider the income that could be anticipated from the resort operations and compare that income to project expenses. The Applicant will be required to supply this information, prior to FMP approval. The analysis should be prepared by an independent, qualified financial expert.

18.113.060 - STANDARDS FOR DESTINATION RESORTS

The following standards govern consideration of destination resorts:

- A. The destination resort shall, in the first phase, provide for and include as part of the CMP the following minimum requirements:**

- a. At least 150 separate rentable units for visitor-oriented lodging.**

FINDING: The Applicant has met this requirement as there are currently at least 194 units for visitor-oriented lodging in Eagle Crest Phase I. In making this finding, the Hearings Officer has determined that the resort's 74 hotel units and 120 time share townhouses qualify as visitor-oriented lodging. The Hearings Officer also finds that the Applicant's 1/5 share time share units qualify as visitor-oriented lodging, unless all 1/5 shares of a 1/5 share unit are owned by one or the same multiple owners. Visitor oriented accommodations are defined by DCZO 18.104.030 to include "overnight lodging." Overnight lodging is defined by DCZO 18.104.030 as "all permanent, separately rentable accommodations that are not available for residential use, including hotel and motel rooms, cabins and time share units." Time share units are defined by DCZO 18.104.030 to include a dwelling unit that is divided into periods of time that are transferred to separate owners or tenants for periods of time less than a full year in any given year, for a period of more than three years. Most Eagle Crest 1/5 share units and time share units meet the time share definition as they are both available for portions of a year to different owners or tenants and the right of use for each extends beyond three years. The only 1/5 share units that would not qualify as visitor-oriented lodging would be 1/5 share units in which all 1/5 shares were owned by a single owner or co-tenants. The Applicant has not provided information indicating whether all of the shares of any 1/5 share multi-family units are owned by a single owners or co-tenants, so the Hearings Officer is unable to conclude whether all 53 such units qualify as visitor-oriented lodging.

- b. Visitor-oriented eating establishments for at least 100 persons and meeting rooms which provide eating (sic) for at least 100 persons.**

FINDING: The Lodge at Eagle Crest and the Inn at Eagle Crest are capable of accommodating over 100 persons in each category of eating establishments and meeting rooms.

- c. The aggregate cost of developing the overnight lodging facilities and the eating establishments and meeting rooms required in subsections (1) and (2) shall be at least two (2) million dollars (in 1984 dollars).

FINDING: The aggregate cost of developing overnight lodging facilities and eating establishments at Eagle Crest has exceeded two million dollars in 1984 dollars. This conclusion is supported by the Applicant's Burden of Proof Statement (page 20) and Exhibit 33, Cost of Facilities to Date. The Applicant has also provided information to show that the figures supplied in these exhibits exceed two million dollars in 1984 dollars (Exhibit 48) as inflation between 1984 and 1993 raised the cost of improvements by 39%. Therefore, an expenditure of \$3,000,000, or more, in 1993 dollars would clearly meet this requirement.

- d. At least two (2) million dollars (in 1984 dollars) shall be spent on developed recreational facilities.

FINDING: At least two million dollars in 1984 dollars have been spent on developed recreational facilities, such as golf courses, riding stables, pools, tennis courts and ball fields. Exhibit 34 provides the approximate improvement cost for recreational amenities within Eagle Crest Phase I and Phase II. The total improvement costs for recreational amenities in Phase I and II is approximately \$7,000,000. This figure was determined to be at least \$5,852,053 in 1984 expenditures, according to Exhibit 48. The Hearings Officer accepts this information in support of this finding.

- e. The facilities and accommodations required by this section must be physically provided or financially assured pursuant to Section 18.113.110 of this chapter prior to closure of sales, rental or lease of any residential dwellings or lots.

FINDING: The facilities and accommodations required by this section, as outlined in Exhibit 34, are already in existence. Their existence has been verified by site visits by Planning staff and the Hearings Officer. They are, therefore, "physically provided" as required by this section and no financial assurance that they will be provided by the Applicant is needed.

- B. All destination resorts shall have a minimum of 160 contiguous acres of land. Acreage split by public roads or rivers or streams shall count toward the acreage limit, provided that the CMP demonstrates that the isolated acreage will be operated or managed in a manner that will be integral to the remainder of the resort.

FINDING: As indicated on the submitted plans and page 20 of the Burden of Proof Statement, the total proposed destination resort area in Phase I (including CRT Expansion) and Phase II is 1,254.34 acres. The total acreage will be split by Cline Falls Highway, with 544.06 acres in Phase I and CRT Expansion on the east side of the road, and 710.08 acres in Phase II on the west side. Both phases, independently, meet the 160 contiguous acres of land requirement.

- C. All destination resorts shall have direct access onto a state or county arterial or collector roadway, as designated by the Comprehensive Plan.

FINDING: Both Phase I and Phase II have direct access onto Cline Falls Highway, a designated collector roadway on the Transportation Element of the Deschutes County Comprehensive Plan. Cline Falls Highway feeds directly into State Highway 126 (an arterial) just north of the project site.

- D. A destination resort shall, cumulatively and for each phase, meet the following minimum requirements:

- a. The resort shall have a minimum of 50% of the total acreage of the development dedicated to permanent open space, excluding yards, streets and parking areas. Portions of individual residential lots and landscape area requirements for developed recreational facilities, visitor-oriented accommodations or multi-family or commercial uses established by Section 18.124.070 shall not be considered open space;

FINDING: According to the Applicant's Burden of Proof Statement, page 21, the total resort area, with the addition of Phase II and CRT Expansion Area will be 1,254.34 acres, with approximately 650.87 acres of open space (51.89%). The open space acreage was purportedly calculated in accordance with Section 18.113.060(D)(1), as shown on Exhibit 36. The open space percentage was revised, by the Applicant, to 53% when open space areas were mapped on Exhibit 50, at the request of County Associate Planner Dale Van Valkenburg. The Hearings Officer has reviewed the open space map and has determined that the map includes areas that do not meet the various definitions of open space contained in the County's development ordinances. This is not surprising, as the County's destination resort ordinance contains a number of provisions that exclude property that meets the general definition of open space contained in DCZO 18.04.030. The Hearings Officer finds that the following exclusions of specific areas from destination resort open space calculations are required by DCZO 18.113.060(H), 18.113.030 (E) and this section: (1) space that is developed with uses that alter the existing or natural landscape, 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, DCZO 18.113.030 (E); and (2) flood plain areas, DCZO 18.113.060(H)(c); and (3) land that is planned for other uses, portions of individual lots and landscaped

areas required to obtain site plan approval, DCZO 18.113.060(D)(a). In applying these exclusions, all tennis courts, flood plain area along the Deschutes River, wells, the portion of Lot 33 on Condor Drive that is shaded purple (.29 acre), ball fields (soccer and baseball), the area of the resort that the Applicant will be required to designate as reserve area for a future sewer treatment facility and any other land that is not in either its natural state or the state in which it existed prior to resort development must be excluded from the open space map.

Without an Open Space Area map that properly excludes all areas that were erroneously included as open space, the Hearings Officer cannot verify that the 50% open space requirement is met. A revised open space map must be submitted at the time of Final Master Plan review and it must include at least 50% open space. The Applicant shall also furnish proof that all open space area has been permanently reserved for open space, prior to FMP approval.

- b. **Individually-owned residential units shall not exceed two such units for each unit of visitor-oriented overnight lodging. Individually-owned units shall be considered visitor-oriented lodging if they are available for overnight rental use by the general public for at least 45 weeks per calendar year through one or more central reservation and check-in service(s).**

FINDING: Revised Exhibit 37 indicates that there are a total of 247 overnight lodging units within Eagle Crest Phase I. These include 74 hotel room units, 120 timeshare townhouses and 53 1/5 share condominiums. The Applicant proposes to add an additional 20 timeshare townhouses, 18 multifamily 1/5 share condominiums and 76 hotel rooms to Phase I. All such units meet the definition of visitor oriented accommodations, as defined by DCZO 18.104.030, provided that they are not owned by a single owner or group of cotenants. It is believed that few, if any, timeshare units are owned by a single owner but this fact must be verified prior to FMP approval and prior to the platting of each phase of Phase II to assure that the proper ratios is met. If all timeshares qualify as overnight accommodations, the number of overnight accommodations in Phase I is 351.

Revised Exhibit 37 also indicates the number of units in Phase I that do not fit the definition of visitor-oriented overnight lodging. These units are the 138 single family homes that currently exist in Phase I. With the future build-out and the CRT Expansion, the Applicant plans to add 61 single family dwelling lots. This will raise the total number of such units in Phase I to 199. Thus, the proposed ratio of accommodations within Eagle Crest Phase I is 361 overnight to 199 residential units. Phase I, as currently developed and as proposed, therefore, can and will meet the required 1 to 2 overnight to residential unit ratio, unless the number of timeshare units that are owned by a single owner or cotenants is extremely and unusually large. The Hearings Officer believes that this number is certain to be very small. Due to

this fact, the Applicant will be able to prove complete compliance with the above-listed requirement prior to FMP approval and such proof will be included as a condition of approval of the CMP.

According to revised Exhibit 37, Eagle Crest Phase II will include 394 visitor-oriented overnight lodging units in the following categories: 100 timeshare townhouses, 144 multi-family 1/5 share condominiums (this number may increase if single family units are decreased), and 150 hotel rooms. The Applicant also proposes as many as 456 single-family homes in Phase II. If all timeshares are owned by different owners, this plan will result in a ratio of 394 visitor-oriented overnight lodging units to 456 residential units. This ratio meets the required 1 to 2 ratio for overnight lodging to residential units, without consideration of Phase I units. It appears that the Applicant will be able to plat each proposed phase, as planned, and maintain the required ratio, provided that the proposed 250 overnight accommodations are built during the platting of phases. The Applicant will be required to provide proof of compliance with this required ratio at the time that each phase is platted.

- E. **Phasing.** A destination resort authorized pursuant to this section may be developed in phases. If a proposed resort is to be developed in phases, each phase shall be as described in the CMP. Each individual phase shall meet the following requirements:
- a. Each phase, together with previously completed phases, if any, shall be capable of operating in a manner consistent with the intent and purpose of this chapter and Goal 8.

FINDING: The existing Phase I of Eagle Crest already operates as a destination resort in a manner consistent with the standards and guidelines provided by Goal 8. Thus, the primary consideration for each proposed development phase in Eagle Crest Phase II is whether proper housing ratios, densities and open space acreages are being maintained. This is discussed further, below.

- b. The first phase and each subsequent phase of the destination resort shall cumulatively meet the minimum requirements of this section and Section 18.113.070.

FINDING: The CMP for Phase II has identified eleven different areas that are proposed to be developed in phases, labelled as Areas 1 through 11. For each of these areas, the Applicant has proposed a potential buildout rate of various types of housing units, identified on the plan as either single-family or multi-family. These numbers are provided on the CMP, Exhibit 2, as follows:

Area 1, 38.5 acres, 66 single-family units (SF), 111 multi-family (MF)
Area 2, 13 acres, 39 SF, 46 MF

Area 3, 16.16 ac., 34 SF, 43 MF
Area 4, 12.86 ac., 39 SF, 43 MF
Area 5, 24.88 acres, 52 SF, 64 MF
Area 6, 18.84 acres, 35 SF, 44 MF
Area 7, 5.47 acres, 11 SF, 14 MF
Area 8, 17.38 acres, 27 SF, 37 MF
Area 9, 49.05 acres, 75 SF, 91 MF
Area 10, 29.25 acres, 66 SF, 74 MF
Area 11 12.2 acres, 12 SF, 33 MF

The Applicant lists the maximum single family units in Eagle Crest, Phase II as 456. The maximum number of multi-family units that could be allowed in Eagle Crest Phase II is shown as 600, assuming that no lots are developed for single family units. The total number of multi-family and single-family units that could be built in Phase II, if a mixture of single-family and multi-family will be some number between 456 and 600.

The Hearings Officer finds that the Applicant intends the multi-family units to be 1/5 share timeshare multi-family units. The Hearings Officer has drawn this conclusion from the fact that Exhibit 37 lists 144 1/5 share units in Phase II and 144 is the difference between the 456 single family and 600 total multi-family and single-family units proposed on Exhibit 2. The Applicant has requested flexibility to increase the number of 1/5 share condominium units, depending upon market conditions, as it plats each phase of Phase II. This is permissible, as long as the Applicant reduces the number of single family lots allowed by a corresponding amount. This shall be accomplished in the same phase of development. This will assure that the total units in each phase will not exceed the number shown in each phase under the "Multi-family" heading. This requirement is necessary to contain the total number of units allowed in Phase II to the 850 proposed by the Applicant in this land use action. As can be seen on Exhibit 2, tallying the numbers under the multi-family column and adding them to the 250 overnight visitor facilities equals the 850 units requested by the Applicant for Phase II. Compliance with the upper limit of 850 units is essential, as the Applicant has used that number in its traffic, water and sewer studies. Those studies would be virtually worthless if the number of units was allowed to climb much above 850. Additionally, the land use notice provided regarding this application would be faulty as the scope of the project would have been significantly understated. For instance, if the single-family and multi-family unit numbers were additive, the Applicant could construct a total of 1306 units in Phase II, an increase of 456 units.

The Applicant has included a tentative plan for lots in Area 1 of Phase II with the CMP map. That plan does not comply with the total numbers listed by the Applicant for Area 1 of Phase II. That plan shows 66 single family units, 66 multi-family units and no overnight visitor facilities for a total of 132 units. The chart on Exhibit 2 shows that the Applicant is requesting a total of 111 units (multi-family and single-

family). When this areas is tentatively platted, it must be revised to comply with the limits shown on the Exhibit II chart, as interpreted by the Hearings Officer. The maximum number of multi-family units is 45. In order to build 66 such units in this phase, the Applicant would need to reduce the number of single family lots in this area to 45 single-family lots.

The Applicant has proposed to construct 250 overnight visitor facilities in Phase II. The Applicant has not stated when these units will be constructed, relative to the construction of various phases of Phase II of Eagle Crest. These 250 overnight visitor facilities consist of 100 townhouse timeshare units and 150 hotel rooms. These units must be constructed, if and when the ratio of visitor-oriented overnight accommodations to other accommodations falls below the 1 to 2 minimum ratio. Monitoring of this ratio has been included as a condition of approval. In determining whether the 1 to 2 ratio is met, the 1/5 share multi-family timeshares and other timeshare may be counted as overnight accommodations if at least one share is owned by an owner or owners other than the owner or owners of other shares. The Hearing's Officer finds that each phase of development can be developed in a manner consistent with Goal 8 and which will cumulatively meet the minimum requirements of this section and Section 18.113.070, if these conditions are honored. Compliance with this condition can be monitored by Planning Staff as each phase of development is submitted for tentative plat review.

- c. **Each phase may include two or more distinct noncontiguous areas within the destination resort.**

FINDING: It appears that each proposed phase of development includes only areas that are or will be contiguous.

- F. **Destination resorts shall not exceed a density of 1-1/2 dwelling units per acre, including residential dwelling units and excluding visitor-oriented overnight lodging.**

FINDING: Eagle Crest Phase I and Phase II, including the CRT Expansion area, consists of a total of 1254.34 acres. At one and one half dwelling units per acre, Eagle Crest could be allowed up to 1,881 residential units, excluding the overnight units. Eagle Crest is proposing a total of 1,410 residential units including overnight accommodations. Thus, the proposed overall density for Eagle Crest is well within allowable densities. If Eagle Crest were to build up to the maximum allowed density of 1,881 residential units, 941 visitor-oriented overnight lodging facilities would have to be provided to meet required ratios.

G. Dimension Standards:

- a. The minimum lot area, width, lot coverage, frontage and yard requirements and building heights otherwise applying to structures in underlying zones and the provisions of Chapter 18.116 relating to solar access shall not apply within a destination resort. These standards shall be determined by the Planning Director or Hearings Body at the time of the CMP. In determining these standards, the Planning Director or Hearings Body shall find that the minimum (sic) specified in the CMP are adequate to satisfy the intent of the Comprehensive Plan relating to solar access, fire protection, vehicle access, visual management within landscape management corridors and to protect resources identified by LCDC Goal 5 which are identified in the Comprehensive Plan. At a minimum a 100-foot setback shall be maintained from all streams and rivers. Rimrock setbacks shall be as provided in this title. No lot for single-family residence shall exceed an overall project average of 22,000 square feet in size.

FINDING: The setback standards for the existing Eagle Crest resort are those setbacks established in prior land use approvals and those provided under other portions of the county zoning ordinance, according to DCZO 18.113.025 (B). This includes river and rimrock standards that are currently stated in other portions of the zoning ordinance. The existing resort must continue to comply with these standards as it contains rimrock and riverfront property.

The setback standards for the expansion areas are determined by the above-cited section. There are no rivers or rimrocks within or adjacent to the proposed expansion areas (CRT and Phase II). River and rimrock setbacks are, therefore, not applicable to the expansion areas.

Goal 5 resources inventoried in the Comprehensive Plan, in the area of the destination resort, include scenic corridors associated with both the Deschutes River and Highway 126. A portion of Eagle Crest Phase I is located within 1/4 mile of the Deschutes River, and is thus within a designated Landscape Management Combining Zone. A portion of both phases of Eagle Crest are located within 1/4 mile of Highway 126, and are also within a Landscape Management Zone. All new development within the LM zone is subject to site plan review to assure compatibility with the standards and criteria established for the Landscape Management Zone.

To the west of Eagle Crest Phase II is a Surface Mining (SM) Zone, an active cinder pit which the Applicant proposes to utilize as a resource for building interior roads within Eagle Crest Phase II. Mineral and aggregate resources are a protected Goal 5 resource. The County has developed zoning restrictions intended to protect inventoried Surface Mines from encroaching noise and dust sensitive land uses. This

protection is implemented through Chapter 18.56 of Title 18, the Surface Mining Impact Area (SMIA) Combining Zone. This zone extends outward 1/2 mile from the exterior boundaries of all SM Zones. No portion of Eagle Crest Phase II lies within 1/2 mile of the nearby SM Zone. Thus, the provisions of the SMIA Combining Zone contained in Chapter 18.56 are not applicable to this proposal, and Goal 5 is satisfied in this respect.

There are no Goal 5 wildlife resources in the Phase II and CRT expansion areas which are identified in the Comprehensive Plan that must be considered in establishing setbacks and building standards. Phase II and CRT expansion areas do not affect any of the following inventoried Goal 5 resources: open space areas, energy sources, significant natural areas, water and wetland areas, wilderness areas, historic sites, cultural areas or Oregon recreational trails.

The Applicant has requested (page 24 of the Burden of Proof Statement) that all single-family dwelling lots be held to the standard solar setbacks contained in Title 18 for a 14 foot solar fence subject to final design review. The Hearings Officer finds, however, that all single-family residential lots should be held to the standard 8 foot solar fence south-wall protection requirement of the County's solar setback ordinance. Exceptions to allow a 14 foot solar fence south roof-protection standard could be reviewed and approved by the Planning Division, on a case by case basis, as individual property owners develop their lots.

The Applicant proposes (also on page 24 of the Burden of Proof statement) that multi-family units, commercial structures, and other resort facilities should be exempted from solar setback standards except for where their shadow would impact a single-family residential lot within or adjacent to the resort. The Hearings Officer finds that a 14 foot solar fence standard should apply when shadows cast by multi-family, commercial structures or other resort facilities affect residential structures of any type. If the shadow of a structure affects a commercial or nonresidential resort structure, no solar setback will be required.

The Applicant have not proposed any other yard and building height standards for this development. The opponents of this application have not suggested any such standards. The Hearings Officer, therefore, looked to the County's zoning ordinance for guidance in determining what such restrictions are appropriate for the proposed destination resort expansions. The Hearings Officer believes that the development allowed in a destination resort is similar to the development allowed in a planned community and that it is appropriate to apply planned community standards to Eagle Crest Phase II and CRT development.

The following standards apply to Eagle Crest Phase II and CRT development:

Single Family Residential Lots. All provisions of DCZO Chapter 18.108, Planned Communities, regarding minimum lot area, width, lot coverage, frontage and yard requirements and building heights, that apply to RS District lots in a planned community, shall apply to all single family residential lots in Phase II and to all CRT lots.

Multi-Family and Condominiums. All provisions of DCZO Chapter 18.108, Planned Communities, regarding minimum lot area, width, lot coverage, frontage and yard requirements and building heights, that apply to RM District lots in a planned community, shall apply to all multi-family and condominium lots in Eagle Crest Phase II.

Commercial and Resort Amenities. Any Phase II lot designated and developed for commercial development or for resort services or recreational activities shall be subject to the provisions of DCZO Chapter 18.108 that apply to lots located in the C District of a planned community.

Building Height. The provisions of DCZO 18.120.040 regarding exceptions to and exemptions from building height restrictions shall apply to Eagle Crest Phase II buildings.

Definitions. The definitions that shall apply to measurement of building height, average lot width and yards are those contained in the definitions section of Title 18.

Off-Street Parking and Loading. Off-street parking and loading space shall be as provided in Section 18.116.160. Single family residences shall have a minimum of two off-street parking spaces. Multiple family units shall have a minimum of one off-street parking space per dwelling unit.

Maximum Average Lot Size. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.

References to DCZO. All references to DCZO standards shall apply to the DCZO ordinance in place at the time of development application, unless such standards have been repealed and not replaced by a new section. In such event, the reference shall be to the ordinance as it was written at the time it was repealed. In the event that sections have been renumbered, the newly numbered section may be utilized, in place of the section number cited by the Hearings Officer.

b. Exterior setbacks.

1. Except as otherwise specified herein, all development (including structures, site-obscuring fences of over three feet in height and changes to the natural topography of the land) shall be set back from exterior property lines as follows:
 - i. 350 feet for commercial development including all associated parking areas;
 - ii. 250 feet for multi-family development and visitor-oriented accommodations (except for single-family residences) including all associated parking areas;
 - iii. 150 feet for above-grade development other than that listed in subsections (i) and (ii);
 - iv. 100 feet for roads;
 - v. 50 feet for golf courses; and,
 - vi. 50 feet for jogging trails and bike paths where they abut private developed lots and no setback for where they abut public roads and public lands.
2. Notwithstanding subsection (1)(iii), above-grade development other than that listed in subsection (1)(i) and (ii) shall be set back 250 feet in circumstances where state highways coincide with exterior property lines.
3. The setbacks of this section shall not apply to entry roadways and signs.

FINDING: The submitted CMP indicates several stretches of roadway, some bike and pedestrian trails, and several golf course areas which do not meet the setbacks required by this section. Concurrently with the submittal of this CMP, the Applicant has applied for a setback variance for four sections of roadway and bike paths. The variance approval standards of Chapter 18.132 will be addressed in detail below. The Hearings Officer has denied the requested variances and the Applicant will, therefore, be required to revise the submitted CMP so that all bike paths and road sections meet the requirements of this section.

The Applicant has not indicated any proposed building sites on the CMP for Eagle Crest Phase II which would violate required building setbacks from exterior lot lines.

There are, however, two proposed single-family residential lots within the CRT Expansion area (shown on Exhibit 4) which, if built upon, would result in a violation of the 150 foot minimum required setback for above-grade development. Lot 46 of "Area XV" in the Canyon River Territories is situated so that it abuts an exterior property line of the resort property. This lot is only 126 feet wide, so there would be no buildable area on the lot outside of the 150 foot minimum setback. In addition, Lot 45 directly south of Lot 46 also lies partially within the 150 foot minimum setback, thus eliminating a substantial portion of this lot from residential development. Exhibit 4 must be amended so that no portion of a residential lot is situated within the 150 foot setback from any exterior resort property boundary. This amendment could be made at the time of tentative plat submittal for the platting of this area.

Existing Eagle Ridge Golf Course

A number of sections of the existing Eagle Ridge golf course (Phase II) are built within the setback area designated for golf courses and some adjoin the resort's boundaries. The Applicant did not seek a variance to allow the existing golf course to be located within the setback area and has taken the position that because the golf course exists, it may continue to exist in its present location. This is, basically, an argument that the area of the golf course that encroaches on the 50 foot setback area is a nonconforming use.

A second Eagle Ridge golf course is planned for Phase II. Sections of that course are shown on the CMP in locations that encroach upon the 50 foot setback area. The golf courses for Phase II were approved by Conditional Use permit #CU-90-189 in 1990. At that time, no setback requirements existed for destination resort golf courses or for golf courses in Deschutes County land use ordinances. A general requirement for buffering and setbacks for all resorts did, however, exist in 1990 in ORS 197.460 and Goal 8. These laws require counties to insure resort compatibility with adjacent land uses by establishing and maintaining natural buffers between the resort and adjacent land uses, including, where appropriate fences, berms, landscaped areas and other similar types of buffers and setbacks of structures and other improvements from adjacent land uses.³ All persons are deemed to know the law. The Applicant had

³ORS 197.460 states that "A county shall insure that a destination resort is compatible with the site and adjacent land uses through the following measures: (2) Improvements and activities shall be located and designed to avoid or minimize adverse effects of the resort on uses on surrounding lands, particularly effects on intensive farming operations in the area. At a minimum, measures to accomplish this shall include: (a) Establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fences, berms, landscaped areas and other similar types of buffers. (b) Setbacks of structures and other improvements from adjacent uses."

special reason to be aware of these laws as the Applicant was and is in the destination resort business.

In 1990, when golf course approval was obtained, the Applicant was planning to seek approval of future golf course residential development. The golf course map submitted with the 1990 conditional use application was labelled "Proposed Conceptual Development of Eagle Ridge, a Residential Golf Course Community" (Exhibit 101) and was designed to leave large areas between the greens and fairways that were suitable for residential development. The burden of proof document for that application (Exhibit 102) stated that "no dwellings will be constructed upon the subject property at this time." [pp. 4 & 5]. As Eagle Crest representative Bill Lyche stated, in a Bulletin article entitled "Resort Courses Ignite Debate" (Exhibit 254): "[I]t would be foolish not to plan for homesites sometime in the future." It is also clear that the golf course area and future residential community were intended to be operated in conjunction with the Eagle Crest resort. This fact is stated on page 2 of the burden of proof statement submitted in support of the 1990 application (Exhibit 102).

The Applicant has constructed the westerly 18 hole golf course approved in the 1990 conditional use permit. Construction of that course was underway in March of 1992, when the Applicant filed a letter enclosing what was called a preliminary master plan for Eagle Ridge. This preliminary plan included a 40 acre tract of land in the northeast corner of the lot, that had not been included in the 1990 site plan application. The "master plan" also moved portions of some of the golf course holes closer to the property boundaries. The Applicant has not constructed the easterly 18 hole golf course.

DCZO 18.113.020 (B), requires an applicant for destination resort approval to "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." This section grants a reprieve from the setback standards for existing developments within the destination resort but does not include a similar exception for previously constructed facilities on property that is a part of the expansion area. County Planning Division staff believed that the constructed golf course would not be subject to the setback standards of the destination resort ordinance and from the provisions of DCZO 18.113.020 (B). The Hearings Officer believes that this conclusion was based upon staff's opinion that the encroachment was a nonconforming use that was entitled to be continued under DCZO 18.120.010 and ORS 215.130. The Hearings Officer finds that the applicant may be entitled to retain the existing golf course, if it can establish that it is a valid, lawfully created nonconforming use. The Applicant will also need to establish that the addition of homes around the golf course will not be an alteration of the nonconforming use or that, if it is an alteration, that such alteration will have no greater adverse impact on

the neighborhood. Gibson v. Deschutes County, 17 Or LUBA 692 (1990). As these nonconforming use issues were not directly addressed in the CMP application and the Hearings Officer is unable to make a conclusive determination of this issue on the facts presented, the Hearings Officer has required that this issue be resolved by the Planning Director, prior to FMP approval.

County staff raised concerns about whether the Applicant was entitled to rely upon rights granted in the 1990 conditional use approval as it was not clear that all conditions of that approval were met by the Applicant. The golf course must have been lawfully established, under the laws in effect at the time it was constructed, in order for it to achieve nonconforming use status. Staff was concerned about Condition of Approval #8 which states: "All conditions of preliminary approval shall be completed prior to final approval and the final mylar signed within one (1) year from the date the decision is mailed or the preliminary approval shall be void." Conditional use approval to build the two Eagle Ridge golf course was granted, and mailed, on December 12, 1990, subject to a number of conditions of preliminary approval that were to have been fulfilled no later than December 11, 1991. As stated in Condition #8, failure to fulfill any condition of approval by that date rendered the preliminary approval void.

A review of the Planning Division file for CU-90-189/SP-90-115 indicates that the Applicant may have failed to finalize its approval of the Eagle Ridge golf courses within the required one year period. This may be the case as a letter written to Deschutes County Planning Director George Read by Thomas A. Walker on behalf of Eagle Crest Resort was dated March 6, 1992 (Exhibit 103) and states that "[i]t is important to note this site plan submittal [that is included with this letter] is intended to meet the Item No. 1 Approval Condition designated in the findings and decisions document for file CU-90-189/SP-90-115." If a copy of the required document was not filed before December 12, 1991, the conditional use permit would have become void.⁴ Additionally, it appears that the Applicant may not have complied with some of the other conditions of approval. The letter from the Bureau of Land Management required by Condition #7 was not found in the Planning Division file. Written verification from the Deschutes County Watermaster, as required by Condition #8, that all water rights were resolved was, also, not found. Additionally, information regarding drainage of golf course ponds does not appear to have been submitted as required by Condition #6 and it does not appear that the requirements of BLM, including a request to map all easements granted by BLM prior to the sale of the

⁴This site plan application included plans and an application for site plan review of a maintenance building. Deschutes County reviewed and approved the maintenance facility plans without discussion of the status of the 1990 decision or the effect of filing the final site plan required by the 1990 approval. The Hearings Officer notes, however, that the County Planning staff has no authority to reactivate an approval after it has become void.

subject property, were addressed as required by Condition # 2. As at least one, if not a number, of the conditions of approval of the 1990 conditional use approval were not met prior to December 11, 1991, the conditional permit is now void. These issues will need to be addressed and resolved in order for the Applicant to establish that the golf course is a nonconforming use that may continue as it is currently shown on the CMP.⁵

If the Applicant does not prove that the golf course location within the destination resort setback area is a nonconforming use or if the Applicant does not wish to seek a nonconforming use determination from the Planning Division, the Applicant might elect to comply with the setback standard or obtain a variance to the standard in any of the following ways: (1) The Applicant may purchase additional property along the areas of the golf course that encroach upon the setback and add them to the destination resort property; or (2) The Applicant may seek and obtain a variance for the location of the first golf course;⁶ or (3) The Applicant might also elect to exclude the already constructed golf course area from the destination resort. This would be possible, under the destination resort ordinance, as the applicant does not need either of the two Phase II golf courses to qualify its project as a destination resort. Adequate recreational facilities exist in Phase I to meet all destination resort ordinance standards;⁷ or (4) The Applicant might elect to move those portions of the existing golf course that encroach upon the 50 foot setback area; or (5) The applicant might seek some type of legislative amendment to the destination resort ordinance to allow this condition to exist. The Hearings Officer understands that other destination resort developers have a similar problem and it is possible that this problem could be solved

⁵The Oregon Supreme Court stated that the following factors must be considered in order to determine whether a nonconforming use exists in any given case: (1) the ratio of prior expenditures to the total cost of the project, (2) the good faith of the landowner in making the prior expenditures, (3) whether the expenditures have any relationship to the completed project or could apply to various other uses of the land, and (4) the nature of the project, its location and ultimate cost. No one factor is predominant. Polk County v. Martin, 292 Or 69, 636 P2d 952 (1981).

⁶It is unknown whether the applicant could qualify for a variance for those golf course holes that were modified by the applicant after the setback standards were adopted or for any portion of the course as it appears that final course design was not approved until after adoption of the setback requirements by the County on February 7, 1992.

⁷The Applicant may be required to partition the golf course from the destination resort property in order to achieve this result and would be bound to develop the course property for EFU zone allowed uses only.

with a "legislative fix."⁸ The Hearings Officer has, therefore, conditioned approval of this application upon revision of the CMP to comply with the setback standard, approval of a variance to those setbacks, a legislative amendment or upon establishment that the currently constructed golf course is a valid nonconforming use and, when developed to include golf course homesites, will comply with the standards of DCZO 18.120.010.

Proposed Eagle Ridge Golf Course

The Applicant claims that it has a "vested right" to complete construction of the second 18 holes of the Eagle Ridge golf course because the County approved the construction of that course in 1990 (CU-90-189 and SP-90-115) and no setbacks were required for EFU zone golf courses at that time. This theory is an extension of the nonconforming use theory. The vested rights legal theory allows landowners to complete the construction of uses, under certain circumstances, that were approved prior to the adoption of a law that prohibits that use. Schmaltz v. City of Hood River, 22 Or LUBA 115 (1991). In the Eagle Crest situation, golf courses are allowed uses in destination resorts but must meet setback standards that do not apply to golf courses in EFU zones. The destination resort setbacks apply if, and only if, the Applicant chooses to redevelop the golf as a destination resort. The EFU zoning of the Phase II property allows the Applicant to continue to operate the golf course as approved in 1990. No vested rights legal cases that involved this type of a fact situation were submitted to the Hearings Officer by the Applicant. All cases cited by the Applicant involved a complete prohibition of a use, rather than a restriction upon the location of the use. Additionally, in all cases the landowner did not elect to apply for a special land use that required special restrictions. The Hearings Officer finds that the burden imposed by a requirement to move the proposed location of an unconstructed golf course a distance of no more than fifty feet, places a significantly smaller burden upon an Applicant than would a prohibition of the golf course use.

Oregon law regarding vested rights allows a landowner to complete construction or implementation of a use that was allowed or approved prior to adoption of a land use ordinance that prohibited the use, if a consideration of the following factors weighs in favor of the property owner: (1) good faith expenditures by the property owner to lawfully develop the property in a given manner; (2) the amount of notice of any proposed rezoning; (3) the amount of reliance on prior zoning classification in purchasing the property and expenditures of dollars; (4) the extent that expenditures relate more to the nonconforming use than to the conforming use; (5) the extent the nonconformity of the proposed use as compared to uses allowed in the subsequent

⁸It is unknown whether such a legislative change would meet the requirements of Goal 8 or ORS 197.435 and whether such a change could be applied to this application, if adopted between the time that the applicant obtains CMP and FMP approval.

ordinance; (6) whether money has been spent to take the use beyond being a mere contemplated use and has committed the property to the actual use which would in fact have been made but for the new law; (7) the ratio of expenditure vs. total cost of the proposed use. Once improvements are constructed they are treated as nonconforming uses, subject to the limitations applicable to such uses. Clackamas County v. Holmes, 265 Or 193, 508 P2d 190 (1973).

The Hearings Officer does not believe that the Applicant has established a vested right to complete the second, currently unconstructed golf course in the location proposed in 1990 or in the location shown on the 1993 CMP application. The Hearings Officer has arrived at this conclusion because the Applicant has failed to prove that all factors necessary to create a vested right exist. Additionally, there is a significant question whether the 1990 conditional use approval is still valid. If that approval is no longer valid, the applicant has no right to continue to rely upon it. Funds spent to construct a course would not have been spent to lawfully develop the property, if the conditional use permit is void, as required by Factor #1 for establishing a vested right. Factor #2 does not assist the Applicant's claim of a vested right as the EFU zoning of the Applicant's property still applies to the property. The proposed golf course may, if approval has not expired, be constructed in the location approved in 1990 under the current zoning. The only reason that the approved location is a problem is that the Applicant has chosen to apply for approval to develop the property as a destination resort and that special use requires special setbacks.

The Applicant established that it spent money to develop the Eagle Ridge golf courses in reliance upon the 1990 approval. The Applicant has not established that any of these funds were spent prior to the time that the Applicant knew or should have known of the County's proposed setback standards for destination resort golf courses. The Applicant claims that its expenditures of money to oversize its parking lot, to build a golf course irrigation system and to design the golf course entitle it to build the second course in the location approved in 1990. The Applicant failed, however, to demonstrate that these expenditures were directly related to the placement of the greens, holes and fairways of its golf course in the fifty foot setback area. It does not appear, to the Hearings Officer that these expenditures have anything to do with the location of the golf course holes in the setback area. Golf course construction is still feasible, so all of these facilities can and will be used to the same extent planned in 1990. The Applicant has, therefore, failed to establish that the expenditures made in reliance upon the 1990 approval are primarily directed to nonconforming rather than conforming development (Factor #4). The case of Union Oil Co. v. Board of County Commissioners of Clackamas County, 81 Or App 1, 6, 724 P2d 341 (1986) supports the Hearings Officer's conclusion as it requires that expenditures used to justify a vested rights claim be substantially and directly related to the nonconforming use. For Eagle Crest, the nonconforming use is limited to the portion of the golf course that encroaches on the fifty foot setback. This view is also consistent with the holding of a similar case. In that case a PUD approval was granted for two parcels,

expenses were incurred that would benefit the entire project and but no substantial construction had occurred on one of the parcels, prior to the change in regulations. The Court held that the developer did not have a vested right to develop the second parcel, as planned. Milcrest Corp. v. Clackamas County, 59 Or App 177, 650 P2d 963 (1982).

The Applicant has claimed that the golf course must be located in the setback area due to topographical features that have been incorporated in the design of the course. The Applicant has not, however, submitted facts to show that this is true for this particular golf course. A view of the area where the courses are proposed in the area of Cline Falls Oasis, by the Hearings Officer, revealed no remarkable geographical features that would prevent movement of the proposed golf course location a distance of fifty feet. In fact, the Applicant moved the location of many of the golf course holes between the time it submitted its 1990 plan and when it submitted this CMP. The Applicant did not submit facts to demonstrate that it is physically impossible to build the course outside of the setback areas, that movement would cost the Applicant money or render the irrigation system planned inoperable.

The Applicant spent money to design the second golf course and will, presumably, need to spend money to revise the course design. It is, however, unknown what that cost will be. Oregon vested rights law requires the Hearings Officer to quantify expenditures directly related to the nonconforming use and the anticipated cost of the entire project, in order to determine the impact of Factor #7, the "ratio of expenditures" test. DLCD v. Curry County, 19 Or LUBA 237 (1990). The Hearings Officer must determine that each cost incurred was incurred before the Applicant should have been aware of the more onerous restrictions. As the final plan for the golf course was not filed until February or March of 1992, it is possible that many of the expenses that the Applicant has cited as establishing a vested right were made after the Applicant had received notice that setbacks were being considered by the County for destination resort golf courses and after adoption of those standards. For the above reasons, there is insufficient information in the record to quantify costs and to apply the ratio of expenditures test.

There is ample room on the Phase II property to move all portions of the second golf course outside of the 50 foot setback area so that the imposition of the setback requirement will not prevent the construction of the second Eagle Ridge golf course. Movement of Holes #12 and #13 is especially important because these holes currently border private residential property in Cline Falls Oasis. The addition of a buffer area in this area will minimize the chance that stray golf balls will trespass onto private residential property and, possibly, cause damage to neighbors' property.

The Applicant has also failed to prove that it has spent money to take the use, placement of the course within the setbacks, beyond being a mere contemplated use or that the Applicant has committed the property to the actual use which would in fact

have been made but for the new law (Factor #6). No portion of the new course is constructed. No evidence was introduced to establish that any initial construction activity has occurred on this course and specifically, in the location that is prohibited by the destination resort ordinance.

The Applicant has claimed that it relied on the prior EFU zoning classification in purchasing the property and expending money to develop the Eagle Ridge golf courses (Factor #3). That Applicant claims that it assumed that it could place golf course greens on the boundaries of the lot and, thereby, maximize the number of building lots in the destination resort. The Hearings Officer finds that this reliance was not warranted because the EFU zoning prohibited both destination resort and residential golf course development when the Applicant purchased the Phase II property. At the time of purchase, the Applicant was speculating that it would be able to obtain future land use approval for homesites. The Applicant had no vested right to count on such an eventuality. Additionally, the Applicant stated in 1990 that it purchased the property knowing that it might not be able to obtain land use approval for homesites and that the golf course operation was a stand alone project (Exhibit 254). Under these circumstances, the Hearings Officer may not consider the cost of purchasing the property in weighing the cost of imposing the current restrictions on the Applicant's second golf course. Union Oil, 81 Or App at 6 - 7.

Based upon a weighing of all of the above-listed factors, the Hearings Officer finds that the applicant has not obtained a vested right to construct the second Eagle Ridge golf course in the fifty foot setback areas required for destination resort golf courses.

Course Locations Approved in 1990

The Hearings Officer reviewed the Applicant's 1990 Eagle Ridge golf course master plan to determine what type of vested right might have been obtained by the Applicant in that approval. This issue is discussed here to aid the County Commission in the event that this matter is appealed by any party and the Commission does not concur with the Hearings Officer's findings regarding vested rights law and finds that the 1990 approval is still a valid approval from which a vested right. This review is also made to assist the Planning Director in his review of the Applicant's claim of a nonconforming right to the current placement of the developed Eagle Ridge golf course.

The 1990 plan filed by the Applicant in the 1990 conditional use application to construct the Eagle Ridge golf courses is dated 1/6/90.⁹ The plan shows a golf course

⁹A subsequent preliminary master plan for the golf course was submitted in 1992, after adoption of the County's destination resort ordinance, as discussed above. The Applicant has not claimed to have obtained a vested right to proceed with construction in the locations shown

layout that is slightly, but significantly, different than that contained in the proposed CMP for Phase II of Eagle Crest and on the 1992 Preliminary Master Plan of the courses that was filed on February 27, 1992. The 1992 Plan and CMP for Phase II appear to show the golf course holes in the same locations. In the 1990 plan, the golf courses were set back further from the Applicant's property boundaries than shown on the CMP map and the 1992 Master Plan. The following is a summary of differences in golf course locations between the plans and their relevance to setback issues:

Existing Course.

Hole #3 In the 1990 plan, all portions of Hole #3¹⁰ of the existing Phase II golf course were located outside of the 50 foot setback area. In fact, measurement of the map indicates that the hole was set back approximately 178 feet from the resort property boundary. As a result, the Applicant did not obtain a vested right to site Hole #3 in the 50 foot setback area in 1990. In the CMP, a portion of Hole #3 is located close to the 50 foot setback line. If any portion of the hole encroaches into the setback, no vested right exists to authorize that encroachment.

Hole #5 In the 1990 plan, Hole #5 was located close to or adjoining BLM property, within the 50 foot setback area. This hole appears to be in roughly the same location shown on the CMP.

Hole #6 The closest portion of Hole #6, on the 1990 plan, is approximately 75 feet from the property line, outside of the 50 foot setback area. In the CMP, Hole #6 was moved into the 50 foot setback area. A portion of the hole now adjoins the property line. As a result, the Applicant did not obtain a vested right to build this hole in the setback area in the 1990 approval.

Hole #12 Hole #12 was and is located within the 50 foot setback area on the CMP and on the 1990 approved plan.

Hole #13 Hole #13 appears to be completely outside of the 50 foot setback area on

on that plan and would have obtained none, as that master plan was filed after the County had adopted its destination resort ordinance, with setbacks, on February 7, 1992 and with the subject property mapped for destination resort development. The doctrine of vested rights does not extend to protect those who had adequate notice of proposed zoning changes but who then proceed, in the face of that knowledge to proceed with subsequently prohibited development. All expenditures must be made in good faith with an intention to lawfully develop the property. Clackamas County v. Holmes, 265 Or 193, 508 P2d 190 (1973).

¹⁰All references to golf course holes are meant to include the entire green, fairway and golf hole, unless the context requires otherwise.

the 1990 plan (approximately 218 feet at its closest point) but the CMP shows Hole #13 adjoining the 50 foot setback line on the western end of the hole and being located approximately 175 feet from the northern property line on the north end of the hole. No other holes on the existing Phase II golf course are built within the 50 foot setback area.

Proposed Course.

The layout for second Phase II golf course shown on the CMP is different than the layout that was approved for that course in the 1990 approval. The Applicant has modified the golf course design to accommodate the relocation of Cline Falls Road and construction of a grade separated interchange on Highway 126. For instance, Hole #15 is oriented in a north-south direction on the CMP, rather than in the east-west direction shown on the 1990 plan. It appears that this was done to allow more room for development between the holes in what has been designated Area 11 of Phase II.

Holes #12 & #13 Holes #12 and #13 are both affected by the 50 foot setback standard of the destination resort ordinance. In both the 1990 and CMP plans, these holes are located within the 50 foot setback area.

Holes #4 & #15 Hole #4 is located within 50 feet of Cline Falls Road. Hole #4 is located in approximately the same location shown on the 1990 plan. Hole #15 is located within 50 feet of the proposed new location of Cline Falls Highway and is in a completely different location than shown on the 1990 plan. The County Planning Division treats road rights-of-way as exterior boundaries.¹¹ As a result, these holes should be setback at least 50 feet from the existing Cline Falls Highway and 50 feet from the area where the future Cline Falls Highway will be located.

- H. Floodplain requirements.** The floodplain zone (FP) requirements of Chapter 18.96 shall apply to all developed portions of a destination resort in a FP zone in addition to any applicable criteria of this chapter. Except for floodplain areas which have been granted an exception to LCDC goals 3 and 4, floodplain zones shall not be considered part of a destination resort when determining compliance with the following standards:

¹¹The Hearings Officer believes that the exterior boundary requirement could be read either as interpreted by the Planning Division and by the Hearings Officer or to apply to the boundary that surrounds the entire area. The later interpretation is strongest when the fee ownership of the land under the road is retained by adjoining property owners. If such were the case in this instance (there is no evidence to indicate one way or the other), the argument could be made that the boundaries of all of the lots purchased by the applicant touch and form one large boundary and that the intervening right-of-way does not form a property boundary.

- a. 160-acre minimum site;
- b. density of development;
- c. open space requirements.

A Conservation Easement as described in this title shall be conveyed to the County for all areas within a floodplain which are part of a destination resort.

FINDING: There are no floodplain areas within Eagle Crest Phase II or the CRT Expansion. A few small portions of Phase I, along the banks of the Deschutes River fall within the 100-Year Flood Plain, and are zoned FP. The areas of the resort property that are within the flood plain should be shown on the Applicant's flood plain map and excluded from the Applicant's open space calculations. No development is proposed within the floodplain.

The Applicant has already conveyed to the County a Conservation Easement along the Deschutes River, as described in Section 18.116.220 of Title 18. This conveyance includes provisions for public access within the ten foot wide strip of land adjoining the subject property. The Applicant will be required to convey a conservation easement for any portion of the property that is located within the 100 year flood plain, but that is not included in the land covered by the current conservation easement, as a condition of approval.

- I. The Landscape Management Combining Zone (LM) requirements of Chapter 18.84 shall apply to destination resorts where applicable.

FINDING: The applicability of the LM zone has been discussed previously. All new development within 1/4 mile of the Deschutes River and/or Highway 126 shall be subject to individual Landscape Management site plan review.

- J. 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.

FINDING: The only wetland areas within the entire project area, as designated on the Oregon Division of State Lands Wetlands Maps, are either within the Deschutes River Canyon, or are intermittent excavated drainage ditches along Cline Falls Highway. No development is proposed for either of these designated wetland areas. The Applicant has, however, built a pump along the Deschutes River. If this activity involved fill and removal within the bed and banks of the river, the Applicant must obtain a separate conditional use permit for that use.

- K. Time share units not included in the overnight lodging calculations shall be

subject to approval under the conditional use criteria set forth in Chapter 18.128. Time share units identified as part of the destination resort's overnight lodging units shall not be subject to the time share conditional use criteria of Chapter 18.128.

FINDING: The Applicant states on page 31 of the Burden of Proof Statement that all proposed timeshare units will be available for overnight lodging pursuant to the ordinance definition of "overnight lodging". Any time share units which are not now identified as part of Eagle Crest's overnight lodging units shall be subject to individual conditional use approval pursuant to Chapter 18.128 of Title 18.

18.113.070 - APPROVAL CRITERIA

In order to approve a destination resort, the Planning Director or Hearings Body shall find from substantial evidence in the record that:

- A. The subject proposal is a destination resort as defined in Section 18.040.030 of this title.

FINDING: The reference in this section to Section 18.040.030 appear to be a typographical error as there is no such section. DCZO Section 18.04.030 contains the County's definition of a destination resort. The Hearings Officer finds that such definition is the one that is referenced by this section of the destination resort ordinance.

18.04.030, Definitions. Destination Resort. A self-contained development providing visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities. To qualify as a major destination resort under Goal 8, a proposed development must meet the following standards:

FINDING: Eagle Crest will be required to be developed as a self-contained development as a condition of approval of this CMP application. Eagle Crest Phase I currently provides visitor-oriented accommodations and developed recreational facilities in an setting of high natural amenities, on a beautiful area on the edge of the Deschutes River canyon. Phase II will be located on Cline Buttes, a local landmark. The Applicant will be required to provide access for visitors and owners in Phase II to Phase I and the Deschutes River in order to assure that Phase II will be functionally located in an area of high natural amenities.

- A. The resort is located on a site of 160 or more acres.

FINDING: Each phase of Eagle Crest contains 160 or more acres.

- B. At least 50 percent of the site is dedicated to permanent open space, excluding yards, street and parking areas.**

FINDING: The Applicant will be required to revise the open space calculations shown on the Applicant's Open Space Map, Exhibit 50, and to comply with this standard as a condition of approval of FMP approval.

- C. At least two million dollars (\$2,000,000)(in 1984 dollars) is spent in the first phase on improvements for on-site developed recreational facilities and visitor-oriented accommodations, exclusive of costs for land sewer and water facilities and roads. Not less than one-third of this amount shall be spent on developed recreational facilities. Developed recreational facilities and key facilities intended to serve the entire development and visitor-oriented accommodations must be physically provided or be guaranteed through surety bonding or substantially equivalent financial assurances prior to closure of sale of individual lots or units. In phased developments, developed recreational facilities and other key facilities intended to serve a particular phase shall be constructed prior to sales in that phase or guaranteed through surety bonding.**

FINDING: The Applicant has established that it has spent at least two million dollars in 1984 dollars on improvements for on-site developed recreational facilities and for visitor-oriented accommodations (see discussion, above). These facilities include pools, tennis courts, ball fields, stables and golf courses. More than a third of this amount was spent on developed recreational facilities. As the financial investment requirement is met, there is no need to assure development of these facilities with surety bonding or equivalent financial assurances, prior to FMP approval. The Hearings Officer has, however, required the Applicant to provide recreational facilities and other key facilities intended to serve a particular phase prior to sales in that phase or to guarantee phase related facilities through surety bonding. As the exact nature of most of the recreational and key visitor-oriented facilities in Phase II is unspecified, it is not possible for the Hearings Officer to determine which of these facilities, other than the second Phase II golf course, is a facility designed to serve a particular phase. The entire second golf course must be completed or bonded prior to the sale of lots in any phase that adjoins or is included in the portion of Phase II that includes portions of the second Phase II golf course. This condition will be excused if the Applicant removes the second course from the FMP to meet other conditions of approval of this decision. The Applicant will also be required to specify the nature of all recreational and visitor-oriented accommodations in Phase II prior to FMP approval and to construct or bond those facilities prior to sales in phases of Phase II that are served by the facilities.

- D. Visitor-oriented accommodations are provided, including meeting rooms, restaurants with seating for 100 persons, and 150 separate rentable units**

for overnight lodgings. Accommodations available for residential use will not exceed two such units for each unit of overnight lodging.

FINDING: The Applicant has demonstrated that it has provided the restaurant and meeting room space required by this section. The Applicant has also provided over 150 separate rentable units of overnight lodgings. The Applicant currently meets the 1 to 2 ratio of overnight lodgings v. residential units and will be able to meet this ratio as the various phases of the resort are platted. Compliance with the 1 to 2 ratio is a condition of approval of this CMP.

- E. Commercial uses limited to those types and levels necessary to meet the needs of visitors to the development. Industrial uses are not permitted.**

FINDING: All commercial uses will be limited to those types and levels necessary to meet the needs of visitors to the development. The Hearings Officer interprets this condition as requiring that commercial uses must serve overnight resort visitors and not draw visitors who will visit the resort for periods of time that do not include an overnight stay at the resort. Some incidental daily visitors will inevitably visit the resort, but commercial activities must be primarily designed to provide services desired by overnight resort visitors.

Betty Marquardt and other opponents of this land use action introduced un rebutted evidence that the Applicant or others associated with the Eagle Crest destination resort currently advertise commercial events in The Bulletin and other public forums. These events include a three day long Dixieland Jazz Festival, auctions, and an estate seminar. Although not in the record, the Hearings Officer is also aware that the Applicant is currently conducting a holiday light show, called StarFest, at the resort and is inviting the public to tour the grounds of the resort and view Christmas lights for a fee of \$5.00 per carload. This event is advertised on U.S. Highway 97 between Bend and Redmond on a large billboard, The Bulletin and on local radio stations. This display lasts for a couple of months. The event is plainly designed to draw the general public to the resort and not to serve the needs of overnight visitors to the resort. These events, and those of a similar nature, all violate this restriction of the destination resort ordinance and will need to be discontinued on all parts of the Eagle Crest resort, as a condition of this and future land use approvals. All future land use applications for commercial activities in either phase of the Eagle Crest resort shall be limited to those types and levels of commercial activities necessary to meet the needs of overnight visitors or residents of the resort.

- B. All standards established by Section 18.113.060 of this chapter are or will be met.**

FINDING: The standards established by Section 18.113.060 have been addressed at length above. The Hearings Officer finds that all standards established by this section have been met, or can be met, by the Applicant as conditions of approval of this

decision, to be verified at the time of Final Master Plan review or, in some instances, when each phase of the future development is platted.

C. The economic analysis demonstrates that:

- a. The necessary financial resources are available for the Applicant to undertake the development consistent with the minimum investment requirements established by this chapter.**

FINDING: The Applicant has satisfied this requirement by developing facilities that meet the minimum investment requirements of this chapter, as discussed above.

- b. Appropriate assurance has been submitted by lending institutions or other financial entities that the developer has or can reasonably obtain adequate financial support for the proposal once approved.**

FINDING: To address this criterion, the Applicant has provided a letter (Exhibit 39) from the President and CEO of Eagle Crest Partners, Jerol Andres, attesting to the financial strength of the project developer and the limited need for outside financing. Mr. Andres states that Eagle Crest Partners, Ltd. has already invested \$3.2 million of its own funds into the proposed expansion project (including golf course construction). Mr. Andres further states that Eagle Crest Partners, Ltd. has as some of its partners one of the largest privately held companies in Oregon and one of the largest contractors in Central Oregon, and that the partnership has sufficient banking relationships to secure financing for the project if financing is deemed necessary. As evidence of the financial strength of the partnership, Mr. Andres points to the fact that Eagle Crest Partners \$93.5 million investment in Eagle Crest I with only limited outside financing. The Applicant has not, however, provided assurances from lending institutions or other financial institutions that demonstrates that the developer has or can reasonably obtain financial support for development of the resort expansions, once the expansion is approved. The Hearings Officer believes that the Applicant should have no difficulty in obtaining this assurance based upon the resort's prior ability to construct significant resort facilities. The Hearings Officer, therefore, finds that this information may and must be required to provided to the reviewer of the FMP, who shall determine whether the assurances are adequate.

- c. The destination resort will provide a substantial financial contribution which positively benefits the local economy throughout the life of the entire project, considering changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land.**

CONCLUSION: The Applicant submitted an economic analysis prepared by Hobson & Associates. This economic analysis accounts for direct and indirect financial

benefits but does not account for indirect costs, such as those listed in this requirement (changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land). Hobson & Associates addresses some of these indirect costs in its rebuttal to the statements of Clyde Everton and Dr. Marjorie Turner, but the cost or benefit of these factors is not estimated. The Hobson analysis also makes benefit projections for a ten year period, rather than for the life of the project. The lack of projection is likely to be insignificant as the tenth year of the Applicant's projection show the economic impact of the resort at build out, after all construction activity has ceased. The Hearings Officer believes that it is reasonable to use this information to project the economic impact beyond that time, as well as such things may ever be forecast.

The Hearings Officer finds, however, that an analysis of the impact of changes in employment, demands for new or increased levels of public service, housing for employees and the effects of the loss of resource land and other indirect costs is plainly required by this section. A gathering and assessment of this information is needed before it can be concluded that the destination resort will provide a substantial financial contribution which will positively benefit the local economy throughout the life of the entire project. The Hearings Officer has, therefore, conditioned approval of this application and approval of the FMP for Eagle Crest Phase II and CRT on the completion of an independent economic analysis and subject to a finding by the analyst that this ordinance criterion has been satisfied. If the analyst so finds, Eagle Crest will be allowed to obtain FMP approval without taking any actions to offset the costs incurred by the County, school district and community at large. If the analyst finds that Eagle Crest will not make a positive contribution, the analyst shall enumerate various ways in which Eagle Crest may correct this problem and shall estimate the economic impact of that action. For instance, the analyst may find that Eagle Crest generates an unmet demand for affordable housing. The analyst might then find that the demand may be met by requiring Eagle Crest to provide rent subsidies for low paid or low-income employees, to provide housing for employees on or off-site that is limited to a percentage of employee income or by providing annual contributions to the local housing authority. Eagle Crest shall then select, from the list of options presented, actions that have the effect of reaching the goal of this section. Those actions will then be included in the conditions of approval of the FMP or may be required to be completed prior to FMP approval, at the option of the Planning Director. The independent economic analyst shall be selected by and shall report directly to the Planning Director. The costs of this study shall be borne by Eagle Crest and their payment assured prior to commencement of the study.

The following findings relate to the economic information provided to the Hearings Officer from economic experts, with consideration of the economic impact information provided by all parties. These findings support the above-listed conclusion:

The Hobson & Associates Report

In Exhibit 31, the Applicant provides projected economic and fiscal benefits of the proposed resort expansion. On pages 1 and 2 of this report, prepared by Hobson & Associates, the "Key Conclusions" are summarized as follows:

- * "The construction of the resort/residential complex is expected to generate over 1,000 full-time equivalent jobs at its peak, contributing over \$115.0 million to the regional payroll over a ten year period. When stabilized, ongoing operation of the resort and related tourist expenditures are expected to generate payroll contributions of over \$15.1 million annually, in both direct and indirect employment.
- * "In the first ten years, the total regional payroll contribution generated from the construction and operation of the resort is estimated at over \$196.0 million (stated in 1992 dollars and including indirect employment caused by resort construction and operation).
- * "The construction and operation of Eagle Crest II will place a minimal burden on Deschutes County, the County School District, or other service providers. Similarly, the population in the residential portion of the development will not "demand" county or school district services commensurate with the revenue generated. Significant sources of revenues generated by the resort and residences are property taxes, fees, licenses, and service charges."

FINDING: The construction and operation of Eagle Crest II will increase the demand for public services from the local school district and Deschutes County government. The resort relies upon the Deschutes County Sheriff's Office for law enforcement services and the demand for those services will increase as the resort grows. The resort is located many miles from Bend, the central office of the Sheriff's Office. The Hobson Report estimated that the cost to Deschutes County of resort development will be \$316,400 per year. School district expenses were not estimated. Hobson claims that costs will be minimal. The Hearings Officer is unable to concur with this assertion as the numerous single-family residential homesites that are planned for the resort may attract a significant number of year round residents. A number of golf course resort communities are currently marketing homes for year round residential use. A large number of people reside in the Sunriver and Black Butte destination resorts year round. Revenues for operation of the County and school district will not rise in relation to the growth of Eagle Crest as tax levies for local taxing districts are fixed at a flat dollar amount and allowed a maximum increase of 6% from that amount each year. In areas of rapid growth, such as Central Oregon, the amount of tax revenue for government services do not keep pace with the increase in growth and inflation. As a result, the districts will not see any new money to fund their services and to offset the increased costs generated by new development. The only way that tax levies may be increased is by a vote of the people.

The construction of Eagle Crest will allow school districts and local governments as it will allow those entities to collect a greater percentage of, or all of, their levies, if the levies of those districts exceed the Measure 5 tax limitation amounts because construction of Eagle Crest II will add assessed valuation to the County's tax rolls. This impact will not, however, assist the Redmond school district as the State of Oregon is mandated by Measure 5 to pay the school district for all tax revenues lost due to Measure 5's limitation. The only benefit to the local school district from this increase in tax collections will be that it will reduce the amount of money that the State of Oregon is required to raise to fund primary and secondary education. This reduction may benefit the district by allowing the State to provide more money in basic school support to all Oregon schools. Assuming that all of the savings achieved by Eagle Crest's impact on the district were returned to Oregon school district and was shared on a pro-rata basis, Redmond's share of the savings would be minuscule.

The increase in assessed valuation within the County achieved by the construction of Eagle Crest Phase II and CRT will inure to the benefit of County property tax payers. The amount that those taxpayers are required to pay in real property taxes will be reduced as the tax levies for the affected taxing districts will be spread over a broader base of property. This impact will make it less costly for all homeowners to live in Central Oregon. This tax savings may also benefit renters, as the tax costs of landlords will be reduced. This impact may even induce more senior citizens to retire in the area.

Eagle Crest II will generate significant room tax receipts for Deschutes County. This revenue is not, however, guaranteed over the life of the project, as Eagle Crest may seek to incorporate as a city in order to garner all of the room tax dollars. Residents of Sunriver are currently proposing to do just that, in an effort to use room tax dollars to finance activities formerly financed by the Sunriver Homeowner's Association. Such services include as security services, fire, ambulance, road maintenance and other such expenses. If that were to happen in Eagle Crest, the positive contribution of room tax dollars to County-wide residents would be eliminated.

- * "Reconciliation of anticipated costs and revenues associated with Eagle Crest II yields a net positive fiscal impact of roughly \$20.0 million for Deschutes County service providers and school districts over the next ten years (stated in 1992 dollars). Since this surplus includes only revenues from property and room taxes and does not account for potential revenue from fees and other charges it is inherently conservative."

FINDING: This reconciliation is meaningless and misleading because Eagle Crest's Phase II construction will not generate additional revenue for service providers and school districts, unless taxpayers vote to increase the tax levy of affected districts due to the lessening of the tax burden on those taxpayers. Instead, it will provide tax relief for those who reside in the taxing districts which cover the subject property.

The Marjorie Turner Report

A report from Marjorie S. Turner, PhD., Professor Emeritus, Department of Economics, San Diego State University, P.O. Box 8005, Sisters, Oregon 97759 (Exhibit 219) was entered into the record. Dr. Turner analyzed the Hobson & Associates report submitted by the Applicant and made the following comments:

1. The expansion of Eagle Crest has many economic and fiscal booby-traps.
 - a. The initial expansion will create a boomtown effect which will bring in high paid construction personnel who will impact the living arrangements, schools and social services of the County.
 - b. Prices will rise due to the boomtown effect.
2. Hobson's conclusion that there will be a net positive fiscal impact is based on false premises and a failure to account for all costs.

FINDING: Hobson's study fails to account for all costs associated with resort development. The study accounts only for direct costs and makes no effort to account for indirect costs. The study does, however, account for direct and indirect economic benefits (see exhibits attached to the Hobson report). This results in an unbalanced and inaccurate view of the economic impact of the resort on the local economy.

3. Hobson ignores the impact of the resort on small businesses. These businesses create the most new jobs for the U.S. economy. Pay for small manufacturing company workers is higher than for resort workers. Such jobs would be reasonable jobs for workers displaced by the shrinkage of the wood products industry in the Pacific Northwest. Small businesses should not be priced out of the area by increasing real estate prices.

FINDING: Rising real estate costs may price some small businesses out of doing business in Central Oregon. It has not been established, however, whether and to what extent resort development increases the cost of housing in a resort community.

4. Hobson does not admit that upscale tourist development in the boomtown phases impacts prices and services, competing with the development of small business in Deschutes County.
5. Nearly everything that serves the upscale tourist is imported into the area, rather than being produced in Central Oregon.
6. The expanding retirement community in Central Oregon is an economic mainstay and is very price-sensitive.

7. Hobson is aware that this development will increase prices as it recognizes that absentee owners will buy property in Eagle Crest for its investment potential.

FINDING: It has not been established that the purchase of property within a destination resort for investment purposes or the expected increase in land values within a destination resort causes the value of Central Oregon homes and properties to increase. It appears logical to the Hearings Officer that the destination resort market is a very different market than is the general residential housing market. It seems unlikely to the Hearings Officer that a person who wishes to purchase resort property, with its rights to utilize resort amenities, would find properties outside of the resort comparable to resort property. The Hearings Officer also notes that those who invest in the early stages of any development project often do so in hopes that the project will succeed and that prices will increase over the course of the project's development. These investors, naturally, bear a greater risk of losing money, as well, if the project is not as well-received or is not developed as promised or expected.

8. Eagle Crest employees will demand public services.
9. There is no evidence to support Hobson's assertion that destination resorts are impervious to recessions.

FINDING: The Hearings Officer agrees that destination resorts are not impervious to recessions. Hobson & Associates concede this point in their rebuttal statement (Exhibit 68) but state that destination resorts fare better than other sectors of the economy during a recession. This makes sense as destination resorts attract wealthy people as visitors and owners and such people usually fare better in a recession than those with fewer financial resources.

10. Hobson claims that 2800 annual full-time equivalent jobs will be created related to construction activities associated with Eagle Crest. This is improbable as there are currently only 2180 construction and mining workers in the County at this time.
11. After the construction phase, jobs for approximately 250 full and part-time employees will remain for workers who will earn \$5 to \$7 per hour. If the figures cited by Hobson are correct, this will create a boomtown effect.
12. Hobson uses multipliers that are too high for Central Oregon.
13. Hobson does not account for all costs, including the costs of easements and variances applied for; increase in traffic and related highway improvements; the loss of wildlife; the exclusionary nature of a gated community; the establishment of a new city; the unwillingness of the Applicant to provide

employee housing except through investment credits; pressure on water resources; the impact of sprawl and density increases; tradeoffs with manufacturing development; and tradeoffs with increased retirement settlement in the area.

FINDING: The Hobson report does not account for such costs. Many of the items listed by Dr. Turner are extremely difficult to quantify in monetary terms. The Applicant is, however, required to account for many of these indirect impacts. The destination resort ordinance requires a determination of economic benefit "considering changes in employment, demands for new or increased levels of public service, housing for employees and the effects of loss of resource land."

14. The Hobson report does not meet the requirements of DCZO 18.113.050 B-19-(a)(b) as it looks at a ten year period rather than the life of the project.

FINDING: The Hobson report does not contain information about the impacts of the destination resort beyond the ten year construction period. It does, however, show the estimated financial cost in the tenth year, after construction is projected to have been completed. This number provides information which is some evidence that the resort will provide a substantial financial contribution to the local economy over the life of the entire project.

The Hobson & Associates Rebuttal

Hobson & Associates responded to Dr. Turner's paper with the following comments (Exhibit 68):

- * Deschutes County currently has a highly developed construction sector, supported to a large extent by construction in the area's destination resorts. Construction labor needs attributable to the proposed project are expected to be met by the resident work force. Since an influx of "high paying" construction personnel from outside of the area is unlikely, discussions of the boomtown effect are not relevant.

FINDING: The Hearings Officer finds that there is a large resident workforce of construction workers who will be available to construct the resort facilities for Phase II and the residences in Phase II and CRT expansion area of Phase I. The Pacific Gas pipeline project and numerous highway projects have been completed recently. Workers from these projects may find employment at Eagle Crest during the construction phase. Other local builders have been employed building the numerous new homes, businesses and multi-family residences built in Central Oregon each year. The large amount of construction already occurring in the County dwarfs the construction contemplated by Eagle Crest. Eagle Crest development is likely to be

phased in over a period of many years. It is unlikely that Eagle Crest construction will create a boomtown effect.

- * Ms. Turner's claim that the growth of small businesses in Central Oregon will be hurt by the development of tourism is unfounded and unsubstantiated. We believe that the impressive growth of both tourism and manufacturing in Deschutes County over the last decade supports our conclusion.

FINDING: The Hearings Officer finds that Ms. Turner's claim that the growth of small businesses will be hurt by the growth of tourism is unsubstantiated by data showing what has happened to small businesses as the existing destination resorts have developed.

- * The bulk of small business jobs in Central Oregon have occurred in the service and retail sectors, as opposed to manufacturing.

FINDING: The Hearings Officer accepts this statement as a finding of the Hearings Officer.

- * Tourism, destination resorts and retirement housing have all grown rapidly in Deschutes County over the last two decades.

FINDING: The Hearings Officer believes that no economic correlation has been established between the growth of Central Oregon as a retirement housing community and as a destination resort area. The Hearings Officer finds that it is generally true that resort communities have a higher cost of living than areas that are not resort communities but it has not been proven that the somewhat higher prices found in this resort community has discouraged senior citizens from retiring here. The cost of living in Bend is only about six percent higher than the national average, according to the American Chamber of Commerce Researchers Association. Portland, Oregon is 9% above the national average and New York City is 119% above the national average. The primary reason for Bend's higher cost of living is that the cost of housing is 132.9 percent of the cost of housing nationwide. This increased cost may be due to the fact that resort community homes are much more expensive than other types of homes (Exhibit 261, # 25).

- * The theory that almost everything which serves the "upscale tourist" is imported from elsewhere is highly questionable and unsubstantiated.

FINDING: A large percentage of the products purchased by all sectors of the population of Central Oregon is imported from elsewhere. Gasoline, most food, clothing, cars, airplanes, furniture and other household items are most often manufactured outside of the region and imported. The Hearings Officer does not believe that upscale tourists will purchase a higher percentage of goods manufactured

outside of the region. In fact, tourists are certainly more likely, in any given day in the area, to consume food prepared by Central Oregon chefs at Central Oregon restaurants, than are area residents.

- * Resort jobs projected to pay between \$5.00 and \$7.50 per hour will not offer sufficient pay to attract mass relocations and will, likely, be filled by local residents who are currently unemployed or under-employed.

FINDING: The Hearings Officer finds that wages between \$5.00 and \$7.50 per hour, especially for work in part-time positions, will not be sufficient to support a family of four at a lifestyle above the poverty level. This is a particular problem due to the growing portion of American families that are single parent families. Single wage earner families, in which the wage earner is employed in a \$5.00 to \$7.50 per hour job will qualify for public assistance and will place an economic burden upon the social welfare system. The Applicant has not done anything to correct this problem, that is endemic to the tourism industry. The Hearings Officer notes, however, that this is a nationwide problem. High paying manufacturing jobs are being phased out and are being replaced with lower paying service industry jobs. The Hearings Officer does not believe that wages for service workers will rise until such time as there is a shortage of workers to fill those positions. At this time, there is no shortage of persons who are willing to work for such wages.

The Hearings Officer also finds that not all workers employed by Eagle Crest will be the sole wage earner for their families. A number of workers may come from two income families or may be students who need seasonal or part-time employment to assist them in getting through college or high school.

- * Our report indicated 2800 FTE jobs relating to construction of the project, with each FTE representing one full year of work. Hobson believes that the one year peak in employment will be approximately 595 FTEs.

FINDING: This statement accurately reflects the numbers shown in the Hobson report (Exhibit 31). Hobson states, and the Hearings Officer concurs, that the area's construction industry workers (2,149 in March to 2,678 in August of 1991) should be able to meet the demand for work generated by resort development. Eventually, it is likely that there will be no more destination resort development in the County and these workers will need to find work in other areas. Construction work, by its very nature, is dependent upon growth to supply jobs. Eventually, projects are "built out" and workers must move to other areas for work.

- * Hobson & Associates states that the expansion of Eagle Crest is "absolutely essential to maintain the existing base of family wage construction industry jobs, much less to facilitate growth in new family wage employment opportunities."

FINDING: Hobson & Associates have not substantiated this claim. The Hearing Officer finds that it is unlikely that the construction of the Eagle Crest expansion area is "absolutely essential" to the local construction industry. The Hearings Officer finds that it is as likely that these workers will find work in other area wide construction projects. It is also likely that the lack of homesites and resort facilities in the Eagle Crest expansion area will accelerate building activity in the existing Eagle Crest development, development within existing golf course communities/resorts such as Broken Top, Awbrey Glen and Pine Meadows Estates and lead to the expansion of other destination resorts or siting of new resorts in other areas of the county. The Hearings Officer believes that there is a finite market for destination resort accommodations and for homes built in destination resorts and that the creation of new lots in Eagle Crest will not, necessarily, result in a rise in destination resort property purchases in Central Oregon.

Housing Survey

FINDING: The Applicant has submitted a survey of housing availability for employees, identified as Exhibit 30. This survey indicates that there are currently 250 full and part time employees at Eagle Crest Phase I, and that 200 additional employees are projected over the next 5 years. The majority of these employees commute from Redmond, Bend, and Sisters as there is limited housing available in the immediate vicinity. An in-house survey of employees indicated that 42% of respondents were renters seeking other housing alternatives, and that 74% indicated a preference to live in Redmond. Exhibit 30 indicates that there is a shortage of available affordable housing in the Redmond area. Eagle Crest had indicated that it intended to participate in a limited partnership with the Central Oregon Regional Housing Authority to assist in providing a 50 unit apartment complex for low to moderate income families in Redmond, but that project has been funded by a different entity.

Exhibit 30 does not address the possibility of providing on-site employee housing or transportation between Redmond and Eagle Crest. One Eagle Crest representative typified on-site employee housing as "a disaster." The Hearings Officer finds, however, that a more positive economic, as well as environmental, impact could be realized if on-site employee housing were provided.

County staff suggested that the resort would have a more positive economic impact on the region if an employee shuttle were developed between Redmond and Eagle Crest. Such a shuttle could transport resort guests to and from the Redmond Airport. The Applicant has, however, submitted information to show that few if any of its existing employees would use such a shuttle. Those employees who indicated that they would use the shuttle, travel to and from the resort at different times of day. This is due to the fact that the Applicant schedules employees to work shifts that start and end at various different times. The Hearings Officer reluctantly concludes that it is,

therefore, unlikely that the provision of a shuttle service would be of any real benefit to anyone.

Resource Land

FINDING: The proposed resort expansion areas do not appear to have ever been employed in any type of resource production, other than cattle grazing, a low-income producing agricultural activity (in Phase II). The proposed Phase II resort expansion area is currently developed as a golf course. In the land use action that approved the golf course development, it was determined that the parcel proposed for development was unproductive agricultural land. Most of the area that is included in Phase II was included in the golf course application. A parcel in the northeast corner of Phase II was added since golf course approval. This parcel is bisected by Highway 126 and has soil types and characteristics that are similar to those of the remainder of Phase II. As such, there will be no significant effect from removal of this parcel from availability for resource use.

Governmental Findings Regarding Economic Benefit

FINDING: The Oregon Legislature found, in 1987, that there is a growing need to provide destination resort accommodations to attract visitors and encourage them to stay in Oregon for longer periods of time. The Legislature also determined that the establishment of destination resorts will provide jobs and contribute to the state's economic development. ORS 197.440.

FINDING: The County's election to adopt a destination resort ordinance in 1992 to allow the siting of such resorts in agricultural and forest zones is evidence that Deschutes County believes that destination resorts are generally beneficial to the citizens of the county.

- d. **The natural amenities of the site considered together with the identified developed recreation facilities to be provided with the resort will constitute a primary attraction to visitors, based on the economic feasibility analysis.**

FINDING: It is apparent that Eagle Crest Phase I constitutes a primary attraction for visitors with its nearly ideal climate, proximity to the Deschutes River, natural aesthetics, and developed recreational facilities. Eagle Crest Phase II, which will share the same attributes as Phase I, will also constitute a primary attraction to visitors.

- D. **Any negative impact on fish and wildlife resources will be completely mitigated so that there is no net loss or net degradation of the resource.**

Resource Identification

FINDING: This criterion must be met for the entire destination resort due to the fact that the Applicant has chosen to use recreational and resort facilities in Phase I to meet the investment standards of the destination resort ordinance. The Beak Consultants, Inc. study, Exhibit 6, reviewed only the Phase II expansion area and made recommendations to mitigate fish and wildlife resources impacted by the Phase II development only. No study was made of the Phase I or CRT expansion area. In order to assure that this condition is met, the Applicant shall cause a study of the impact of Phase I, as constructed at this time and at build out, on fish and wildlife resources, prior to FMP approval. If any negative impact is found, the Applicant shall completely mitigate the loss.

Wildlife Mitigation Measures

Beak Consultants and ODF&W suggested wildlife mitigation measures. Those measures are described below.

Beak Consultants Incorporated

Beak Consultants studied the Phase II property and concluded that "a varied package of on-site and off-site measures will likely be required to meet the no net loss or degradation goal." Beak Consultant's identified 17 wildlife mitigation options which could be utilized to offset negative impacts on wildlife associated with the proposed development. These options are:

1. Topsoil should be carefully removed from the proposed residential sites, stockpiled and respread on final graded sites to provide an appropriate seedbed for revegetation. Where topsoil has been removed by past grading, a soil amendment such as compost or imported topsoil should be added. Excessive soil compaction by machinery should be avoided during seedbed preparation.
2. Topsoil stockpiles should be promptly seeded and mulched, or covered with polyethylene to prevent erosion.
3. Disturbed areas should be reseeded with a diverse grass/forb seed mixture compatible with existing soil types that will germinate quickly to minimize erosion potential and provide wildlife forage and cover. Native and naturalized species should be emphasized to the greatest extent possible.
4. Where possible the 150 to 250 foot buffer required around the perimeter of the project site should be retained in a natural, undisturbed condition to provide habitat for wildlife.

5. Seeding should begin immediately after final grading or temporary disturbance if seedbed preparation is completed during the spring through fall, irrigation may be required to successfully establish ground cover. An appropriate nitrogen fertilizer should be applied per suppliers recommendations. Mulch should be applied on areas of greater than 2:1 slope, and on sites which cannot be seeded during the growing season to protect these sites until the next seeding period.
6. Project landscaping should be designed to enhance and provide habitat for wildlife. Maintain as much of the existing habitat as practicable between residences, including the understory of sagebrush and grasses. Plant and develop shrub and tree patches within open space around residences to provide habitat structure and diversity important to many species of wildlife. Incorporate native and naturalized species with ornamental landscaping to provide a diversity of plant species attractive to native wildlife.
7. Develop an animal control policy consistent with the Deschutes County Comprehensive Plan to minimize harassment of wildlife, particularly that of deer by dogs. Property owners should be required to keep dogs within maintained fenced areas or utilize other suitable measures to prevent dogs from straying off their property. When off premises, owners should be required to maintain dogs either on leash or under verbal control.
8. Create an educational program encouraging residents to remain on developed trails to minimize undesired trail proliferation and associated habitat impact (i.e., trampling, soil compaction). Stress resident coexistence with wildlife. Foster a look, enjoy, but respect and do not disturb attitude towards wildlife.
9. Regulate traffic speeds through posted speed limits not to exceed 20 mph.
10. Erect and maintain bird boxes on wooden fence posts and tree trunks within open space areas to provide nesting sites for secondary cavity nesting species. Placement and dimensions of boxes should correspond to the likelihood of attracting appropriate species for the habitat present.
11. Erect 2 to 3 nesting platforms for Canada geese on Eagle Lake.
12. Increase the buffer of unmaintained shoreline on the north side of Eagle Lake to provide additional cover and habitat for wildlife. This part of the shoreline does not enter into play on the golf course.
13. Develop riparian habitat along portions of the shorelines of new lakes where they do not hinder golf play. Plant shrub patches, seed with native grasses, and leave unmaintained to provide cover and wildlife habitat.

14. Erect periodic raptor perch posts on existing transmission line poles which are of older designs and represent an electrocution hazard to raptors.
15. Construct new electrical distribution lines for the development underground to eliminate avian electrocution hazards.
16. Purchase the COID land in the northeast corner of the project area, west of Cline Falls Highway and south of Highway 126. Remove the existing portion of Cline Falls Highway and reroute the entrance farther west on Highway 126. Reclaim the old road and rehabilitate the extensive dirt bike trails through tilling and reseedling. Leave the area undeveloped except for defined trails, and set aside as a natural area to serve as a wildlife corridor to the Deschutes River.
17. Develop a joint project with the BLM on adjacent public lands to reduce potential adverse impacts on deer and improve the overall quality of wildlife habitat in the area. Potential activities include wildlife water developments, clearing and seeding of small patches of land, juniper thinning, snag creation, down log creation, brush pile creation and raptor perch posts.

Oregon Department of Fish & Wildlife

The Oregon Department of Fish & Wildlife submitted comments regarding the Beak Consultants study and recommended that Eagle Crest undertake the following wildlife mitigation measures comments:

18. The Applicant should be required to monitor water quality and to make adjustments to its use of fertilizers and herbicides if water quality is affected by fertilizers and/or herbicides used by the resort and its occupants.
19. Eagle Crest should contribute funding for the middle Deschutes groundwater study.
20. Eagle Crest should make annual contributions to a habitat trust fund based on Eagle Crest revenues. 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.
21. Develop an animal control policy to prevent harassment of wildlife.
22. Create a wildlife education program.

23. Develop riparian habitat along portions of any new lakes.
24. Purchase COID land in the northeast corner of the project area for the County or BLM.
25. Do not use poisonous baits to kill golf course rodents.
26. Work with ODFW and BLM to improve habitats on adjacent public lands.
27. Any large expanses of fence built should be done to specifications which allow for the passage of deer.
28. Juniper habitats may be widespread, examples of ecologically balanced juniper-sage-bunchgrass communities containing "mature" older trees are extremely rare. The Hearings Officer interprets this comment as an indication that ODF&W that as many of these stands of trees should be protected when the subject property is developed. These areas should be identified and included as undeveloped open space areas on the FMP.
29. 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.
30. Sewage and stormwater disposal systems should be designed and built to prevent contamination of the Deschutes River and the aquifer below the resort.
31. 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.

Bureau of Land Management

BLM has not submitted any comments on the current application. BLM did, however, comment on the 1992 CMP application. In 1992, BLM suggested that waste water might be utilized to create artificial wetlands as a possible mitigation option for reptiles, amphibians, and other species which could utilize a wetland area. The Applicant makes several arguments against the use of waste water treatment facility to handle Eagle Crest effluent. Without such a facility, effluent could not be used to create wetlands. These arguments will be discussed, below.

The Eagle Crest Position

At the hearing of this matter on October 21, 1993, the Hearings Officer asked the Applicant whether it was willing to perform certain suggested mitigation measures that were recommended by the Applicant's consultant and by ODF&W. As a result, the Applicant's attorneys, Robert Lovlien and Sharon Smith, filed a written response to that question that is summarized as follows:

- * The Applicant does not want to make a financial contribution to the regional groundwater study, but is willing to donate the Newton & Associates Ground Water Study and background materials to the Middle Deschutes Ground Water Study.

FINDING: The Newton study and many background documents are already a matter of public record and may be obtained by the Middle Deschutes Ground Water Study group from Deschutes County. Additionally, a donation of such documents would do little to mitigate fish and wildlife resource damage caused by the resort, as the study group will have little or no power to affect resort operations, once FMP approval is granted..

- * The Applicant does not believe that the Hearings Officer has authority to require it to contribute to a wildlife habitat trust fund. The Applicants' attorneys claim that to require contributions to a trust fund would supersede the wildlife overlay zones adopted by the County.

FINDING: The Applicant does not argue that its resort has no impact upon wildlife resources. Impacts to such resources are documented in the record of this application. The destination resort ordinance specifically requires mitigation of wildlife impacts, in order to meet the requirements of Goal 8. The Hearings Officer is granted authority by DCZO 18.113.075 to impose conditions calculated to insure that the standards of the destination resort ordinance are met by the Applicant, in this case that all adverse impacts on fish and wildlife resources caused by the resort are mitigated. The fact that the County provides some protection for wildlife resources in wildlife overlay zones, does not mean that it intended its adoption of an overlay area to relieve destination resort developers from the expressly stated obligation to mitigate resort impacts on fish and wildlife. The Hearings Officer finds that the payment of funds to rehabilitate or preserve wildlife habitat will effectively mitigate the harm to habitat caused by the construction and operation of this destination resort on what was once farm and grazing land that provided habitat for wildlife. The Hearings Officer also finds that she has authority to impose such a requirement as a condition of approval of this application.

- * The Applicant does not want to purchase COID land that adjoins the destination resort for the purposes of rehabilitating that land. This mitigation

measure was recommended by the Applicant's expert, Beak Consultants in order to provide for a wildlife corridor to the Deschutes River. The Applicant states that COID is currently negotiating a land trade involving this parcel. The Applicant states that it is, however, willing to reclaim and rehabilitate the area of the existing Cline Falls and Highway 126 intersection, once a new intersection has been constructed.

FINDING: The Hearings Officer finds that she may have sufficient authority to require the Applicant to rehabilitate surrounding lands as a condition of approval, but is hesitant to do so. It may be that the current and new owners of the property will not wish to sell the property to the Applicants. It may be that the specific property is of greater utility for other purposes. If the Applicant were, however, to voluntarily undertake these activities, its obligation to mitigate the resort's impact on fish and wildlife resources would be reduced. This would result in a reduction in the amount of the payment that the Applicant would be required to make to the fish and wildlife damage mitigation trust fund.

- * The Applicant's attorneys claim that the Hearings Officer does not have the authority to mandate financial contributions to the groundwater study.

FINDING: The Hearings Officer may require participation by Eagle Crest in the groundwater study, under this criterion, if it is necessary to know more about groundwater in order to assess Eagle Crest's impact on fish in the Deschutes River or upon wildlife. The Hearings Officer does not believe that such a study is necessary for this purpose, if it is assumed that all water used by Eagle Crest is water that would otherwise reach the Deschutes River in determining the impact of the Eagle Crest water use on fish and wildlife resources. The water studies submitted into the record establish that the Applicant's water use from the regional aquifer for Phase II does not affect water flows in the Deschutes River until six miles upriver from Lake Billy Chinook. This is due to the fact that the water table of well water is located below the bed of the Deschutes River in the area of the Eagle Crest resort. Between the point six miles upriver from Lake Billy Chinook and the banks of that lake, huge amounts of water flow into the river which are believed, by hydrogeologists, to be coming from the regional aquifer tapped by Eagle Crest for domestic and irrigation purposes.

If Eagle Crest wishes to challenge the assumptions listed above, it may participate in the regional groundwater study, in an effort to obtain more exact information on the amount of water that is lost from the Deschutes River, due to Eagle Crest water use. Once that information is obtained, it may be utilized to determine what impact Eagle Crest has on fish and wildlife in the Deschutes basin. This may reduce the resort's obligation to mitigate such damages.

David Newton stated that there was adequate water during a drought year to maintain ODF&W requested instream water rights and that much greater quantities of water are present in the Deschutes River below the point where water from the aquifer tapped by Eagle Crest enters the Deschutes River. While this may be the case, there has been no evidence introduced to establish that the lowering of flows by the amount requested by Eagle Crest will have no impact on fish and wildlife resources. If there is some impact, that impact must be mitigated under the strict standard adopted by the County.

- * The Applicants' attorneys recommend that the Applicant undertake ODF&W mitigation measures listed as C, D, E, G, H, I, J by the Hearings Officer under her discussion of the 10/12/93 letter from Ted Wise of ODF&W, above, and items numbered 10, 11, 12, 13, 14, 15, 17 and 16, with modification to apply requirements to right of way that may be abandoned, if and when a new interchange for Highway 126 and Cline Falls Road is built.

FINDING: The Applicant has not established that undertaking these recommended actions would meet the ordinance criterion of completely mitigating any negative impact on fish and wildlife resources so that there is no net loss or net degradation of the resource. The Applicant has not included Mitigation Items #1 - 9 that were recommended by the Applicant's expert, in its recommended mitigation actions. The Applicant has not explained the reason that these items were not included. Some of these items would have required the Applicant to maintain larger buffer areas around resort activities and to provide for more natural landscaping than planned by the Applicant. The Applicant has also eviscerated the #16 recommendation for rehabilitation by seeking to transfer it from a parcel that has frontage on the Deschutes River, a water source for wildlife, to the right of way area that may be abandoned if and when a grade separated interchange is constructed on Highway 126.

In order to assure that the destination resort ordinance requirement of complete mitigation is met by the Applicant, the Hearings Officer has included the conditions as conditions of approval of this application:

1. The FMP shall not be approved until such time as the Applicant has either completely mitigated all resort impacts, as outlined below, or has assured that such impacts will be mitigated after FMP approval by the imposition of enforceable conditions of approval, inclusion of wildlife protection obligations in covenants and restrictions that shall burden all expansion area properties (CRT & Phase II), adoption of wildlife regulations by the resort's owners' association and by the execution of development agreements, where appropriate. The Applicant shall prepare and file a comprehensive wildlife mitigation master plan that explains how each mitigation measure will be or has been assured, prior to FMP approval. This explanation must be supported

by documentation of consent by all landowners whose property will be used to meet the mitigation measures.

2. The following mitigation measures shall be performed or adequately assured, as discussed above: (a) Measures 4, 6, 7, 9, 10 through 15, 17, 18, 21 through 23, 25 through 31¹²; (b) the Applicant shall outline all areas that will be reserved in a natural state, as recommended in Measures 4 and 6, on the FMP, and shall assure that no lawns are allowed in these areas through covenants and restrictions that will bind purchasers of property that is located in these areas. The Applicant will not be required to maintain golf course holes, greens and fairways located in the 150 and 250 foot setback areas in a natural state; (c) establish and implement an erosion control plan for all disturbed land, as required by ORS Chapter 468; (d) the Planning Director, with the assistance of ODF&W, shall assess the extent of the fish and wildlife impact (assuming that the most intensive development allowed by this approval will be undertaken by the Applicant) that is not met or certain to be met by the imposition of the mitigation requirements and shall develop a plan to mitigate the remaining impact through measures such as the purchase and rehabilitation of lands for fish and wildlife activities or for the protection of resources needed to assure fish and wildlife survival. The cost of undertaking these measures shall then be estimated and the Applicant shall be required to pay for the cost of undertaking these measures by making payments to an ODF&W trust fund that must be expended solely for mitigation activities. Payment for the impact of Phase I, excluding the CRT property, shall be made prior to FMP approval. Payment for impacts caused by CRT expansion area shall be paid prior to platting of that area for building lots. Payment of the costs of mitigating the Phase II impacts shall be apportioned between the phases of the development in a manner that reasonably relates to the impact of each phase, and paid as a condition of plat approval for each phase. (d) the Applicant shall reimburse the County and ODF&W for the cost of determining the amount of the wildlife mitigation assessment; and (e) the Applicant shall be required to work with COID, BLM and the County if and when the new interchange (Highway 126 & Cline Falls Road) is built, to reclaim the areas adjacent to the existing Cline Falls Highway and Highway 126 adjacent to the property owned by COID (T15, R12, Sec. 14AO, Tax Lot 900). The Applicant shall remove the existing portion of the Cline Falls Highway that is abandoned and rehabilitate the road and dirt bike trails by tilling and seeding the property. The Applicant will be required to leave the area undeveloped, except for defined trails, to allow the area to act, in conjunction with the

¹²The mitigation measure numbers are those numbers assigned to the measures by the Hearings Officer under this discussion of DCZO 18.113.070 (D).

COID property, as a wildlife corridor to the Deschutes River (assuming that the COID property remains undeveloped)..

- E. Important natural features, including but not limited to, significant wetlands, riparian habitat and landscape management corridors will be maintained. Riparian vegetation within 100 feet of streams, rivers and significant wetlands will be maintained. Alterations to important natural features, including placement of structures, is allowed so long as the overall values of the feature are maintained.

FINDING: There are no wetlands or riparian habitats within project boundaries. There are no significant natural features in Phase II. There are wetlands and riparian areas along the Deschutes River. No new development has been proposed for this area and the only development near this area is a river trail. The Applicant will be required to inventory and protect these areas in Phase I, as a condition of FMP approval. Landscape Management corridors will be maintained through individual site plan review for the various phases of development. This condition may require the Applicant to move the newly constructed irrigation water pump that is located on the banks of the Deschutes River.

- F. The development will not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

FINDING: The Applicant has identified uses on surrounding properties on pages 12 through 16 of the Burden of Proof Statement. According to this information, none of the surrounding lands, other than BLM land, are devoted to farm or forest uses. The BLM land has been used for cattle grazing in the past and is zoned for farm uses. The BLM land is not currently used for cattle grazing and it is unknown whether BLM will allow grazing in the future.

According to information provided to the County by the OSU Extension Service, activities and impacts generally associated with this type of agricultural use are as follows:

Livestock: Cow/calf grazing operations have potential year round impacts such as dust, manure odor, flies, cattle noises, livestock escape and property damage. Possible vehicular interference with farm equipment can occur on local roads.

The impact of a resort development upon cattle grazing is usually minimal, if the animals are appropriately fenced out of resort property. The Applicant will be required to assure that resort and adjoining cattle grazing areas are separated by fencing that does not hinder the ability of deer to cross the area, unless BLM indicates in writing, to the County, that they do not want to have fencing installed to

separate the uses. Additionally, HB 3661 which was adopted by the 1993 Legislature, provides protection for farm activities from nuisance complaints by adjoining landowners. The Hearings Officer finds, that the HB 3661 "right to farm" provisions and appropriate fencing of livestock will prevent the resort from forcing a significant change in accepted farm or forest practices or from significantly increasing the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

- G. a. Destination resort developments that significantly affect a transportation facility shall assure that the development is consistent with the identified function, capacity and level of service of the facility. This shall be accomplished by either:
1. Limiting the development to be consistent with the planned function, capacity and level of service of the transportation facility;
 2. providing transportation facilities adequate to support the proposed development consistent with OAR Chapter 660, Division 12; or
 3. altering land use densities, design requirements or using other methods to reduce demand for automobile travel and to meet travel needs through other modes.

A destination resort significantly affects a transportation facility if it would result in levels of travel or access that are inconsistent with the functional classification of a facility or would reduce the level of service of the facility below the minimum acceptable level identified in the relevant transportation system plan.

FINDING: The Applicant has submitted a Traffic Impact Analysis for the expansion of Eagle Crest Phase II prepared by Kittelson & Associates (Exhibit 9). A supplemental letter was submitted by Kittelson & Associates which addresses impacts associated with the CRT Expansion in Phase I (Exhibit 10). The Applicant also submitted a Kittelson report regarding the impact of the resort on U.S. Highway 20 in the Tumalo area (Exhibit 45).

The study methodology used in the Kittelson reports includes four steps. The first step is to assess the existing traffic conditions in terms of the capacity and safety of the system. Second, the characteristics of the project traffic are determined. Third, future conditions are assessed by projecting "background" traffic without the proposed development, and then adding in the projected traffic generated by the proposed development. Fourth, strategies are recommended to mitigate any deficiencies identified in the system. The application of these four steps to the Eagle Crest project

have been summarized on pages 8 through 10 of the Applicant's Burden of Proof Statement and are detailed within Exhibit 9.

The Hearings Officer has a number of concerns about the Kittelson & Associates reports and believes that the reports understate the traffic that will be generated by the resort. The reports based their traffic estimates on golf course, hotel and residential uses. They did not make estimates for traffic that will be drawn to the commercial uses in the resort. For instance, the Canyon Club restaurant draws customers from outside of the resort. The same is true of the resort's stables. Additionally, the resort sponsors conferences (in 1992 they obtained approval for a temporary conference center) and it is unclear whether the Kittelson report considered this use. Kittelson also failed to account for trips generated by employees who commute to work at the resort. The Kittelson report also failed to include all proposed Phase I residential and hotel units in its calculations. The report lists 74 hotel units, when authorization for 150 units was sought by the Applicant. Additionally, the report states that 365 residential homes are planned for Phase I when the Applicant actually plans 410 units that fit in this category. The report also estimates that there will be three trips per day per residential home. This number appears to be very low, given the fact that the traffic expert believes that hotel visitors will make 6 trips a day. Also, the County Public Works Department estimates standard residential homes generate 6 to 10 trips per day. It is likely that a number of the resort's single family homes will be purchased for use as a primary residence and that those homes will generate traffic similar to that generated by other homes in the County.

The report identified two critical intersections within the study area: Highway 126 and Cline Falls Highway and the main resort entrance's intersection with Cline Falls Highway. The report found that both intersections currently function at acceptable levels of service, however, it was found that these intersections would not function at acceptable levels of service as traffic from the proposed Eagle Crest expansion is added to the system.

The October 14, 1993 supplemental report prepared by Kittelson & Associates, regarding Tumalo area traffic identified two intersections that are impacted by resort traffic. These intersections are Seventh Street and Highway 20 and Cline Falls Highway and Highway 20. The level of service for the 7th Street intersection is currently at level D. The level of service at this intersection will fall to Level F once Eagle Crest Phase II traffic is added to the intersection. Level of service for the Highway 20 intersection is currently F. These findings confirm the information provided by Deschutes County Planning Commissioner Andy Tillman, that the Tumalo intersections that are used by resort traffic are currently overwhelmed by traffic. The Kittelson report concludes that the Highway 20 intersection now meets warrants for a traffic light, assuming that the evening peak traffic is ten percent of all traffic in the intersection. Kittelson found that, with a traffic light and Phase II

traffic, the Highway 20 and Cline Falls Highway intersection would operate at LOS B.

- b. Where the option of providing transportation facilities is chosen, the Applicant shall be required to improve impacted roads to the full standards of the affected authority as a condition of approval. Timing of such improvements shall be based upon the timing of the impacts created by the development as determined by the traffic study or the recommendations of the affected road authority.

FINDING: Since the report found that the existing transportation facilities would fail, due to resort traffic, without improvements, the Applicant has proposed several improvements to impacted facilities to mitigate the identified deficiencies. The Applicant indicates on page 9 of the Burden of Proof Statement that an agreement with the Oregon Department of Transportation has been reached regarding mitigation measures which includes a grade-separated interchange at Cline Falls Highway and Highway 126. A copy of this agreement, including a conceptual design, has been included as Exhibit 11. According to this letter, the interchange would be completed by October of 1995 if development of Eagle Crest Phase II proceeds as projected, with Eagle Crest responsible for 40% of the costs and ODOT picking up the other 60%.

Opponents of the resort expansion application have argued that ODOT should not spend public funds to construct the new grade separated interchange. The Hearings Officer cannot control ODOT decisions regarding its funding of projects. If ODOT wishes to finance 60% of the cost of this project at the time that the Applicant needs to construct the facility to meet CMP and FMP conditions of approval, that is their choice to make. The Hearings Officer finds, however, that she must impose the entire obligation for making to the Highway 126 and Cline Falls Highway road improvements upon the Applicant due to the provision of this section that states that the Applicant must be required to improve impacted roads to the full standards of the affected authority as a condition of approval, if they elect to improve roadways rather than to scale back their project to prevent overburdening the public roadways.

The Deschutes County Public Works Department road improvement standards require that the Applicant provide a left-turn refuge and right-turn deceleration lanes at the intersection of all driveway entrances and Cline Falls Highway. This left-turn refuge has already been constructed at the main entrance to Eagle Crest Phase II as a condition of approval for the golf course. To further mitigate traffic congestion at this main entrance, a second entrance onto Cline Falls Highway further to the north is proposed to be constructed when Eagle Crest Phase II reaches 70% build-out. This entrance would also be constructed with left-turn refuges and right-turn deceleration lanes. In addition, Cline Falls Highway must be improved to at least 28 foot overall

paved width along the entire property frontage, including an additional 4 feet for shoulder bikeways on either side of the automobile travel lanes.

The Kittelson Report concluded that the installation of a traffic light at the intersection would remedy most of the Tumalo area traffic problem. Naturally, a great deal more traffic will travel through this rural service center but it will be better managed if a traffic light is installed. Although the Seventh Street and Highway 20 intersection would rate an F LOS, the report believed that the light at Highway 20 and Cline Falls Highway would provide a reasonable alternative to this intersection for drivers. The traffic expert also found that the F LOS would only be experienced by minor street movements. The Kittelson Report concluded that the impact of Eagle Crest Phase II traffic would have a minor impact on the Highway 20 and Cline Falls Highway intersection and that Eagle Crest should not be required to install the traffic signal recommended. The Hearings Officer finds, however, that the Eagle Crest Resort will have a significant impact on this intersection. First, the Kittelson Report fails to include Phase I Eagle Crest traffic in its assessment of impact. This omission results in a number that is only approximately 60 percent of Kittelson estimated Eagle Crest traffic, based upon the percentage of total resort population that will be sited in each phase. Second, the Kittelson report appears to understate the number of trips generated per day by the resort's residential units, especially as it has estimated these trips at one half the rate generated by the hotel. Many of the residential units in the traffic study are timeshare and condominium units that function much like hotel accommodations. Additionally, a fair number of the single family residences may be purchased by year round residents whose vehicle use should be closer to the 6 to 10 trip a day range expected for County single-family residences, rather than the three per day estimated by Kittelson. Third, the Kittelson report includes no estimates for traffic generated by commercial areas. Fourth, the Kittelson report states that Phase II traffic will constitute 6.3% of the traffic at Highway 20 and Cline Falls Highway. This number increases to approximately 10.5% when Phase I traffic is added to the traffic estimates. Additionally, there is a large volume of through traffic on Highway 20. Kittelson and Associates states that 20% of the cross traffic in the intersection is generated by Phase II. This number increase to approximately 32% when Phase I is included in the estimate. The Hearings Officer believes that it is cross traffic, not through traffic that generates a need for a turn signal in this intersection. As a result, it is clear that Eagle Crest traffic will significantly impact this intersection.

The approval of this CMP will also place a significant burden on Cline Falls Road and raise a need to improve that roadway. The Applicant will be required to pay funds to assist the County in improving that roadway in order to mitigate the impact of resort traffic on that road. The amount of this contribution will need to be calculated prior to FMP approval.

To ensure that all traffic impacts from the proposal are adequately mitigated, approval of this CMP should be contingent upon the following conditions of approval:

- * Applicant shall improve the Highway 126/Cline Falls Highway intersection so that it meets the full standards of the Oregon Department of Transportation. Eagle Crest is responsible for obtaining all required permits and approvals, including land use and Scenic Waterway (if applicable) approvals for construction of the interchange improvements prior to FMP approval. If the design and location of the proposed interchange is not approved by all permitting agencies, a different solution to the interchange traffic problem must be designed and approved prior to FMP review. Eagle Crest shall financially guarantee completion of the project through surety bonding or substantial financial assurances approved by the County, prior to the closure of sales of individual lots or units in Phase II or CRT, as required by DCZO 18.113.110. The project shall be completed no later than when the impacts created by the resort development require the improvement. This date shall be determined by the Planning Director, prior to FMP approval. As the traffic study submitted by the Applicant did not include all resort generated traffic, the impact of commercial, sales office, employee and vendor traffic will need to be estimated and used to determine when the improvements will be needed.
- * Applicant shall cause a traffic light to be installed at the intersection of Highway 20 and Cline Falls Highway prior to FMP approval. If ODOT refuses to allow installation of this traffic light, the Planning Director shall determine, by consultation with ODOT, the level of improvements that ODOT believes are warranted and shall require those improvements prior to FMP approval.
- * The Final Master Plan for the proposed CMP shall include the proposed interchange design and the realignment of Cline Falls Highway, if approved. If the interchange is not approved, the Applicant shall scale back the size of the Phase II expansion, as required by DCZO 18.113.070(G)(1) or limit its impact on road systems as required by DCZO 18.113.070(G)(3).
- * The Applicant shall make all interim improvements recommended by the traffic study (i.e. - signs, flashing beacon, shoulder widening) to the Highway 126 and Cline Falls Highway intersection, prior to FMP approval.
- * If a Comprehensive Plan amendment is needed to approve an interchange connection, the amendment should be adopted prior to, or concurrent with, Final Master Plan approval.
- * The Applicant is responsible for all permit, engineering and improvement costs. The Applicant also, must place money in a trust account with the County for the improvement of Cline Falls Highway. Money shall be paid on a per lot sales basis, at a rate to be determined by the Planning Director prior

to FMP approval, payment of which shall be included as a condition of Final Master Plan approval.

- * Deschutes County shall revise the figures projected in the Kittelson studies to reflect all resort generated traffic and to correct the omissions cited by the Hearings Officer, prior to FMP approval. The Applicant shall reimburse the County for the cost of obtaining such an update.
- c. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.

FINDING: The Traffic Impact Analysis addresses internal site circulation on page 36, and recommends the following development standards be met to ensure acceptable safety and operational standards:

- * All roadways within both Eagle Crest developments be constructed to private street standards (Section 17.48.180 of Title 17 - 20' width).
- * All minor street approaches intersecting with the principal roadways in both Eagle Crest I and II should be stop sign controlled.
- * Since the design of the roadway system will allow for excessive travel speeds, advisory speed signs of 25 miles per hour should be posted along the principal streets, as per a residential neighborhood.

On page 38 of the Traffic Impact Analysis, the report concludes that; "The internal circulation within both Eagle Crest developments is expected to operate at very acceptable levels. All of the intersections within the developments will operate at a very acceptable LOS "A"."

The Deschutes County Public Works Department has commented that the proposed 20' wide roads in the development will not be adequate for the scale of the proposed development. Public Works requests that local roads be improved to 26 to 28 feet in width. Staff noted that Title 17 has been amended since the Kittelson report was prepared. Section 17.48.180 now requires that the minimum paved roadway width for private roads, except in certain circumstances, be twenty-eight feet. These standards became effective through Ord No. 93-012 on August 4, 1993. The Applicant submitted this Conceptual Master Plan application on August 5, 1993. Therefore, the 28 foot minimum pavement width standard is applicable to this development.

The Deschutes County Bicycle Advisory Committee has provided substantial written comments regarding bicycle and pedestrian movements within and between the developments. The primary concern of the Bicycle Committee is that the bicycle and

pedestrian facilities shown on the CMP are only cursory, and that more thought and planning should be given to these facilities to actually promote and encourage their use. The Committee has submitted several comments and suggestions that should be utilized by Eagle Crest in designing the bicycle and pedestrian system for the Final Master Plan. These comments and suggestions are outlined above. These concerns must be resolved prior to FMP approval.

The Hearings Officer notes that, pursuant to Section 17.48.140 of Title 17, bike paths with multiple users (i.e. bikes, pedestrians, golf carts) must have a width of 12 feet. Ten-foot wide bike paths are allowed if bicyclists are the only intended users. In this application, these paths are designed to accommodate multiple uses.

Page 8 of the Wildlife Assessment submitted by the Applicant (Exhibit 6) recommends regulating traffic speeds through posted speed limits not to exceed 20 mph. The Traffic Impact Analysis, however, recommends a speed limit of 25 mph within the resort. The Hearings Officer, finds that a speed limit of 20 mph shall be established for roads within the resort's boundaries, other than Cline Falls Highway.

- H. The development will not create the potential for natural hazards identified in the County Comprehensive Plan. No structure will be located on slopes exceeding 25 percent. A wildfire management plan will be implemented to ensure that wildfire hazards are minimized to the greatest extent practical and allow for safe evacuation. With the exception of the slope restriction of this section, which shall apply to destination resorts in forest zones, wildfire management of destination resorts in forest zones shall be subject to the requirements of Section 18.40.070, where applicable, as to each individual structure and dwelling. (Ord. 92-032 ss 1. 1992).

FINDING: The Comprehensive Plan does not identify any specific natural hazards associated with the subject property. According to the Applicant's Burden of Proof Statement, p. 38, there are no slopes on the site which exceed 25%. The Deschutes Canyon portion of Phase I does, however, contain slopes in excess of 25%. No structures have been proposed for this area and no new structures will be allowed in this area. The Applicant has submitted a Wildfire Prevention and Evacuation Plan, identified as Exhibit 29, which addresses wildfire precautions and contingency plans for the proposed development. This plan appears to be adequate. The subject property has recently been annexed to the a rural fire district and a fire station has been built within a short distance of the resort. The resort also contains large irrigated golf course and lawn areas which minimize the risk of wildfire within the resort. The subject property is not located within a forest zone.

Policy 4 of the Natural Hazards section of the Comprehensive Plan (p. 111) requires that; "Plans (public and private) shall consider and reflect the effects of drought on the proposed projects." The Applicant has addressed this policy in Exhibit 7, the

Hydrogeologic Study prepared by David J. Newton & Associates, Inc. The elements of this study will be assessed in comments under section 18.113.070(K), below.

- I. Adequate public safety protection will be available through existing fire districts or will be provided on-site according to the specification of the state fire marshal. If the resort is located outside of an existing fire district, the developer will provide for staffed structural fire protection services. Adequate public facilities to provide for necessary safety services such as police and fire will be provided on the site to serve the proposed development.

FINDING: The Eagle Crest property has been annexed of the resort site to the Redmond Rural Fire Protection District. The Applicant shall provide written proof from the Redmond RFPD, that all portions of the resort have been annexed to the district, as a condition of approval of the final master plan.

Exhibit 17, the Domestic Water Supply System Master Plan prepared by W&H Pacific addresses fire protection needs. On page 5 of this plan, the Applicant states that the Redmond Fire Department has recommended a minimum fire protection flow rate of 750 gallons per minute, but this figure has not been verified by the Redmond Fire Department. The Hearings Officer is aware that flows of at least 1,000 gpm are ordinarily required for most urban residential development. According to this plan, the Applicant intends to provide a fire protection flow rate for residential areas of 1,000 to 1,500 gpm, and 2,500 gpm for commercial areas. The plan identifies the location of fire hydrants within the project area. The Applicant will be required to provide a minimum fire protection flow of 1000 gpm for residential uses and 2,500 gpm for commercial areas. This condition must be met for the existing development (Phase I, excluding CRT) at the time of approval of the FMP. This condition must be met prior to final platting of CRT expansion area or any phase of Phase II.

Exhibit 29, the Wildfire Prevention and Evacuation Plan identifies an evacuation plan in case of fire or other emergency.

Exhibit 25, the Eagle Crest Resort Employee Safety Manual, outlines emergency procedures and services which are to be employed by Eagle Crest personnel. Page 1 of this manual indicates that fire and ambulance service are located in Redmond, a distance of 6.4 miles, with an approximate 12 minute response time. The Applicant has stated that a new fire substation has been located within a short distance of the resort. AirLife service from St. Charles Hospital in Bend has a seven minute flight time to the resort. The manual goes on to provide detailed procedures for employees to follow in various types of emergency situations.

Page 2 of Exhibit 35, Proposed Uses in Eagle Crest Phase II, indicates that a "Fire Station" is contemplated as a proposed use within the resort. This station has,

actually, been built outside of the boundaries of the resort and the Applicant no longer intends to build a station within the resort.

This section also requires that "[a]dequate public facilities to provide for necessary safety services such as police . . . will be provided on the site to serve the proposed development." Some of the Applicant's employees perform resort security functions and call the Deschutes County Sheriff's Office to handle criminal matters. The Sheriff's Office is based in downtown Bend, many miles from the Eagle Crest resort. As the resort grows, the demand for Sheriff's Office services in this distant location will increase. The Hearings Officer believes that this growth in demand for police services may be alleviated by the Applicant developing an on-site police service, along the model of the Sunriver police force or by an increase in Sheriff Office staffing. The Hearings Officer has, therefore, required that the Applicant work with the Sheriff's Office to quantify the need for police facilities and services and to develop a plan to meet the need. The Planning Director shall review the plan and must determine that the plan meets the increased demand for police services, before the Applicant may receive FMP approval.

The Hearings Officer finds that adequate public safety services exist and can be provided by Eagle Crest for both the existing and proposed development, provided that the entire resort area is annexed to the Redmond RFPD and a plan is developed for police services, as described above, prior to final Master Plan approval.

- J. Streams and drainage.** Unless otherwise agreed to in writing by the adjoining property owner(s), existing natural drainages on the site will not be changed in any manner which interferes with drainage patterns on adjoining property. All surface water drainage changes created by the development will be contained on-site in a manner which meets all standards of the Oregon State Department of Environmental Quality (DEQ). The erosion control plan for the subject development will meet all standards of ORS Chapter 468.

FINDING: According to the Applicant's Burden of Proof Statement, page 39, there are no natural drainages on the site that will in any way interfere with drainage patterns on any adjoining property. The Applicant's Erosion Control Plan, Exhibit 8, indicates that all surface water drainage will be contained on-site. This plan provides several erosion control methods which will be utilized by Eagle Crest in the construction process and in the design of roads and other facilities. The Applicant will be required to comply with this plan as a condition of approval of this CMP and of the FMP.

- K. Adequate water will be available for all proposed uses at the destination resort, based upon the water study and a proposed water conservation plan. Water use 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. Water sources shall not include any perched water table. Water shall only be taken from the regional aquifer. Where a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table.

FINDING: The Applicant has submitted a Hydrogeologic Study (Exhibit 7) and a Domestic Water Supply System Master Plan (Exhibit 17) which address these requirements. In addition the methodology and conclusions of the Hydrogeologic Study have been independently evaluated and verified by a Registered Professional Geologist hired by the County (Exhibit 21). The information contained in these exhibits is summarized on pages 40 through 42 of the Applicant's Burden of Proof Statement. The Applicant has also submitted a document entitled "Hydrogeologic Study, Eagle Crest Phase II, Supplemental Findings" that is dated September 30, 1993, a letter to Bill Lyche from David Newton regarding water supply issues and a November 1, 1993 letter from David Newton regarding groundwater adequacy. The opponents have submitted numerous documents about the water issue. The gist of these articles is that aquifers can become depleted by intensive use, that it is a poor idea to approve land use permits without first determining that water is available for the projected use, that development of Eagle Crest should be deferred until after the current groundwater study is completed for the Middle Deschutes Basin and that Eagle Crest's water use may adversely affect neighboring wells and natural resources.

The findings and conclusions found on page 2 of the Newton Hydrogeologic Study indicate that a highly productive, deep aquifer was encountered during the drilling program initiated at Eagle Crest Phase II during the fall of 1991 and 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 reason that the aquifer is deeper at this location than it is at other locations is not conclusively known. Mr. Newton made statements that inferred that this Eagle Crest had tapped into some aquifer other than the regional aquifer but later stated that "in our initial report we documented that the Eagle Crest wells draw from this regional aquifer." This is consistent with the observation in the first Newton report that regional aquifers are sometimes found at deeper elevations around volcanic features like Cline Buttes. Mr. Newton also believes the deep aquifer from which Eagle Crest water is withdrawn is discharged into the Deschutes River approximately ten miles downriver from the resort. At the point of discharge, large quantities of ground water are discharged into the river from underground springs. Mr. Newton included a Deschutes River Flow Rate Exhibit that shows flow rates at various points in the river between May 11 and 15, 1992. This map shows that 56 cfs of water was measured at Eagle Crest, whereas 365 CFS was measured just upriver from the confluence of Squaw Creek and the Deschutes. The exhibit also shows that water levels in the river remain low for a considerable distance downriver when flow rates suddenly increase from 68 cfs to 216 cfs in a short stretch of water. This information

supports the assertions of Mr. Newton regarding the impact of pumping on groundwater.

Results from pump testing of the deep aquifer indicate that pumping the well at 1,500 gallons per minute will have no impact on surrounding wells. Pumping rates as high as 1,500 gpm were discharged from Eagle Crest Phase II well #1 with no more than 2.15 feet of drawdown. Pilot Hole #1, the observation hole 35 feet from EC II-1, had a drawdown of only 0.1 feet. A table top exercise was then performed, at the recommendation of Joseph Gonthier and field measurements, after a season of daily pumping water from the Eagle Crest Phase II well, indicate that there was little or no drawdown on the well.

There is no usable surface water source within the boundaries of Eagle Crest Phase II. The Deschutes River adjoins Phase I. The high yielding groundwater source is needed to meet the ultimate water demands. Water samples collected and analyzed from the aquifer indicate analyzed constituents well within Environmental Protection Agency drinking water quality standards.

The summary and recommendations on page 2 of Exhibit 17, the Domestic Water Supply System Master Plan, indicates that, at project build-out, the water system for Eagle Crest will serve over 3,600 people. The system will include six wells, a domestic water storage reservoir, one booster pumping station, surface water lake storage, and approximately 12 miles of distribution piping. It is anticipated that the domestic water consumption of Eagle Crest will be approximately 1,238,750 million gallons of water on a peak day. The required source contribution to meet this demand is 860 gpm. Eagle Crest will ultimately irrigate approximately 500 acres of golf course turf in addition to a substantial amount of open space. The irrigation source requirement is approximately 3,280 gpm during the peak consumptive use period. The combined domestic and irrigation source requirement totals 4,140 gpm at project build-out. The three existing wells within Eagle Crest Phase I, two existing wells within Phase II, plus one new well proposed for Phase II should provide the necessary contribution. The Hydrogeologic Study estimates (p. 2) that the ultimate water need for Eagle Crest Phase II itself will be 2,331 gpm. Both the Study and the Master Plan conclude that the water source is adequate to meet the water demands created by the development.

The Applicant's water conservation plan is found on pages 12 and 13 of Exhibit 17, the Domestic Water Supply System Master Plan. The following list of water conservation measures are proposed to be incorporated into the Phase II water system:

- * 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 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

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

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

surrounded by homes, unless the effluent meets Level IV treatment standards, the highest treatment standard for sewage. It is possible to irrigate golf courses with effluent treated to meet lower standards (Levels II and III) only if the course is not surrounded by homes and effluent is applied to rural or nonpublic lands and signs are erected warning of the hazards of effluent. Buffers of 10 feet for surface applications of effluent are also required. The regulations also require fencing of impoundments of effluent, except for Level IV treated effluent. Treated effluent would need to be impounded in storage facilities or lagoons during times of the year when effluent may not be applied. A 26 acre pond, five feet deep, would need to be built to store effluent over the course of the winter. The effluent would need to be fenced, unless it was treated to Level IV quality standards. W&H Pacific has not explained whether it would be possible to treat Eagle Crest effluent to Level IV standards, at which point the effluent could be utilized without many restrictions.

The Applicant says that Bijan Pour, a DEQ official, "indicated subsurface disposal possibly provides the best treatment, in excess of tertiary standards, when maintained aerobic" (Exhibit 18, p. 2). This comment is not a statement of official position by the State Department of Environmental Quality (DEQ) regarding this issue, and none was ever provided to the County, despite the Hearings Officer's requests that Planning Division staff and the Applicant request that DEQ comment regarding this issue. DEQ will need to approve any plan that is ultimately approved for wastewater treatment and disposal, so their input would have been extremely useful to the Hearings Officer in deciding whether it would be practicable for the Applicant to obtain approval of a sewage treatment facility that would put treated effluent to beneficial use.

W&H Pacific has stated that "certain areas of the Eagle Crest Development do not have sufficient soil profiles to accommodate single-family subsurface systems" (Exhibit 17, p. 11). The Applicant has, however, proceeded to file a Master Plan that calls for complete development of the entire Phase II property, even in areas that cannot be served by a subsurface system. Areas that are not suitable for subsurface systems should not be designated for development that requires septic sewer service. The Applicant's plan also lacks information about the planned back up system that will be provided for the individual drainfields. No central drainfield site has been designated for Phase II effluent. This must be done prior to FMP approval.

Based upon the foregoing, the Hearings Officer finds that a central, mechanical treatment facility designed and operated at the resort is the only facility that may be constructed by the Applicant that can assure that beneficial use of wastewater is maximized, as required by the destination resort ordinance, and that is capable of serving the entire resort. The Hearings Officer finds, however, that such a system is not feasible when low levels of effluent are generated and the levels fluctuate. The information provided by W&H Pacific regarding the Black Butte system indicates that as a sewage system grows to the level anticipated in Eagle Crest (similar to the size

of Black Butte Ranch), it will be possible to have two treatment plants and to use one as a reserve facility for treatment during high flow periods. If such a two treatment plant facility is constructed for Eagle Crest, a 26 acre pond, five feet deep, is needed for a mechanical treatment system at Eagle Crest to store effluent when it may not be used for irrigation. Eagle Crest created a reserve area for such a mechanical treatment system in its 1988 Master Plan, but removed the system from the Plan in the 1990s.

Based upon the foregoing, the Hearings Officer believes that the Applicant should be allowed to utilize a subsurface facility at this time, subject to compliance with conditions guaranteed to assure compliance with the beneficial use requirement when such use becomes feasible. The Hearings Officer believes that this objective may be achieved if the following conditions of approval are imposed:

1. Prior to FMP approval, the Applicant shall design a mechanical treatment facility and complete collection system, with at least two treatment plants to assure effective treatment of effluent during high flow and low flow periods. The facility shall be sited on a parcel of property within the destination resort that is large enough to accommodate all sewage treatment plant facilities, at least 23 acres. The Applicant shall set aside or obtain ownership of such a site and provide proof of ownership to the Planning Director, prior to FMP approval. The site must be shown on the FMP map. Plans for the treatment facility shall include an effluent pond designed to hold effluent during periods when it may not be utilized for irrigation or other beneficial uses.
2. The Applicant shall obtain DEQ approval of the mechanical treatment facility and collection system plan, prior to FMP approval. If it is documented that DEQ approval is not available, the Applicant shall demonstrate to the Deschutes County Planning Director that the facility design meets DEQ requirements for such facilities, prior to FMP approval.
3. Prior to FMP approval the Applicant shall do the following: (a) Design a wastewater reuse program that will utilize wastewater and which may include, but not be limited to, use of effluent to irrigate golf courses, to create wetlands or to irrigate cropland; and (b) Design the transportation and distribution system which will be used to transport and discharge effluent to and on the site of reuse; and (c) If effluent will be reused on property located outside of the boundaries of the resort, the Applicant must submit proof that it has obtained a binding legal commitment to discharge effluent on that site; and (d) State what level of treatment (I through IV) will be achieved by the plant designed, demonstrate how DEQ requirements (OAR regulations) on reuse will be met, and provide assurances acceptable to the Planning Director that measures to comply with the regulations will be met once effluent is put to beneficial use.

4. The Planning Director shall determine at what point of development a mechanical treatment facility will become feasible and require its construction at or prior to that time in the conditions of approval of the FMP. The Applicant shall provide a performance bond or other financial assurances satisfactory to Deschutes County Legal Counsel, assuring completion of the mechanical treatment facility and related facilities.
5. The Applicant shall identify, on the FMP, all areas in the resort that are not suited for development with septic systems. No buildings requiring sewer service may be sited, or residential or commercial lots platted, on these properties until such time as the mechanical treatment facility is constructed and operational.
6. The Applicant shall obtain septic system feasibility approval from the Deschutes County Environmental Health Department for each proposed lot in each phase of development platted prior to approval and filing of the plat, until such time as the central facility is constructed and operational and when service by that facility to the platted area is assured.
7. The Applicant has stated that the septic tanks on each lot will be backed up with a central collection system. This system has not been designed. The Applicant shall design the back up effluent collection system and designate an area for central and/or back up effluent disposal prior to FMP approval. The Applicant shall construct the back up, central drainfield prior to platting any portion of Phase II and shall install all collection lines for the system in each phase, prior to the issuance of building permits in that phase.
8. The Applicant shall make an application to DEQ for a WPCF permit, and comply with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. The Applicant shall have received approval of a WPCF permit consistent with this provision prior to applying for approval of the Final Master Plan. The Applicant shall also obtain approval of the mechanical system, prior to operation of that plant.
9. Approval of each phase of development that will utilize subsurface drainage systems may be denied by Deschutes County if DEQ has withdrawn approval for the subsurface system or if there is substantial evidence to indicate that the systems are failing or causing significant contamination of groundwater or river water.
10. If, at some time in the future, the Comprehensive Plan is amended to allow the Eagle Crest resort to connect to the Redmond sewer system, the Applicant may apply to the Planning Division for amendment of these conditions of approval to authorize that sewage treatment option and to remove the on-site

treatment plant requirements. The Applicant will need to demonstrate that Redmond's sewage treatment plant has adequate capacity to treat the sewage in compliance with all sewage treatment regulations and that the Applicant has obtained a binding, long-term commitment from the City of Redmond to accept and treat the Eagle Crest sewage and to make a beneficial use of the effluent.

- M. The resort will mitigate any demands it creates on publicly owned recreational facilities on public lands in the surrounding area.**

FINDING: The nearest publicly owned recreational facility on public lands in the surrounding area is the Cline Falls State Park. According to the Applicant's Burden of Proof Statement, page 16, Eagle Crest has attempted to provide a number of on-site recreational amenities, as well as access to the Deschutes River along its easterly boundary for resort guests. These are intended to mitigate created demands on Cline Falls State Park by attempting to capture the users of Eagle Crest on-site.

Planning Staff indicates that the Applicant will be required to either: 1) dedicate land for park purposes; or 2) pay a \$350 per-lot park acquisition and development fee in lieu of actual dedication as required by Section 17.44.010 of Title 17 (the County Subdivision Ordinance). This fee will be charged at the time of final plat review for the platting of all lots within the resort unless a dedication of park land occurs.

- N. Site improvements will be located and designed to avoid or minimize adverse effects of the resort on the surrounding land uses. Measures to accomplish this may include establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and appropriate fences, berms, landscaped areas and similar types of buffers, and setback of structures and other developments from adjacent land uses.**

FINDING: The Applicant has identified land uses on adjoining properties on pages 12 through 17 of the Burden of Proof Statement. Mitigation of adverse impacts has also been discussed, and includes, primarily, the maintenance of natural buffer areas around the perimeter of the resort and observation of the setbacks required by this ordinance. The Applicant's golf course significantly impacts residences in the Cline Falls Oasis subdivision on the north end of Phase II, as evidenced by the testimony of Linda Burwell. The Applicant offered to place berms and to plant vegetation along the Phase II boundary that adjoins Ms. Burwell's residential property. The Hearings Officer finds that buffering is needed along that portion of the northern boundary of Phase II that adjoins Cline Falls Oasis subdivision properties. The Hearings Officer has, therefore, required the Applicant to submit and receive approval of a landscaping plan that meets the requirements of this section for that area of Phase II, prior to FMP approval.

- O. The resort will be served by an on-site sewage system approved by DEQ and a water system approved by the Oregon State Health Division, except where connection to an existing public sewer or water system is allowed by the County Comprehensive Plan, such service will be provided to the resort.

FINDING: These issues have been discussed previously in sections 18.113.070(K) and (L) above. The Applicant shall be required to apply for and obtain WPCF approval from the DEQ prior to submittal of the Final Master Plan. The Hearings Officer has also required that the Applicant make provisions for an on-site treatment system, when such a system becomes feasible. No provision of the County Comprehensive Plan allows connection of Eagle Crest's sewage or water system to an existing public sewer or water system and none has been allowed by this decision, unless the Comprehensive Plan is amended to allow connection to an existing public sewer or water system.

The Oregon Water Resources Division has completed a technical review of the domestic water supply system plan (Exhibit 21). As required by the Oregon Health Division, the Applicant must submit water quality analyses from the new well before final approval of the well can be considered.

- P. The destination resort will not alter the character of the surrounding area in a manner that substantially limits, impairs or prevents permitted or conditional uses of surrounding properties.

FINDING: The Hearings Officer finds that the destination resort will not alter the character of the surrounding area in a manner that substantially limits, impairs or prevents permitted or conditional uses of surrounding properties. Surrounding properties are zoned either Multiple Use Agriculture - MUA-10, or Exclusive Farm Use - EFU-SC. The permitted and conditional uses within these zoning districts are found in Chapter 18.32 and 18.16 of Title 18. The Applicant has addressed this requirement on pages 43 and 44 of the Burden of Proof Statement. It is the Hearings Officer's opinion that the Applicant has adequately addressed this criterion and that those findings support the Hearings Officer's finding that the Applicant has complied with this section. The Hearings Officer also finds that the conditions of approval imposed on this decision were designed to insure that this objective will be achieved.

- Q. Commercial, cultural, entertainment or accessory uses provided as part of the destination resort will be contained within the development and will not be oriented to public highways adjacent to the property. Commercial, cultural and entertainment uses allowed within the destination resort will be incidental to the resort itself. As such, these ancillary uses will be permitted only at a scale suited to serve visitors to the resort.

FINDING: The Hearings Officer has previously found that Eagle Crest Resort is currently offering commercial, cultural and entertainment uses that are designed to draw participants from the entire Central Oregon community, not just to serve visitors of the resort. These events include such things as auctions, estate planning seminars that are advertised to the public, Dixieland jazz festivals and other such events. The occurrence of these events were well-documented by Betty Marquardt. The Hearings Officer also notes that the Applicant now conducts StarFest, a commercial Christmas light show that is advertised on a Highway 97 billboard, in The Bulletin and on local television and radio stations and that is in operation for approximately two months a year. These events, and others of their type, may not, however, be continued, in any part of Eagle Crest after CMP approval is final.

- R. The commercial uses permitted in the destination resort will be limited in type, location, number, dimensions and scale (both individually and cumulatively) to that necessary to serve the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:
- a. Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to the resort, or the use is necessary for operation, maintenance or promotion of the destination resort; and
 - b. the use is oriented to the resort and is located away from or screened from highways or other major through roadways.

FINDING: The submitted Conceptual Master Plan indicates a commercial core area in the center of the proposed Phase II development, a resort sales office in Phase I and a future commercial area in Phase I. These are the only areas in the Master Plan that may be developed for commercial uses. The Master Plan states that potential uses in the Phase II commercial area may include, but are not limited to, a golf pro shop, retail shops, restaurant, hotel, pool, and tennis courts. The Plan does not list any of the uses proposed for the area designated "Future Commercial Area" on the CMP. The Hearings Officer is unable to determine that these proposed commercial areas will be developed with uses that will meet the standards of this section. Before such a determination may be made, it must be known what types of uses will be conducted in the commercial areas. The Hearings Officer has, therefore, conditioned approval of this CMP and the FMP upon compliance with this section.

The Phase II commercial area will not be readily visible from outside of the resort boundary, and appears to be of a scale suited to serve visitors to the resort. This appears to be an appropriate area for commercial uses. The Phase I commercial area is located within view of the Cline Falls Highway, a major through roadway. This area must, therefore, be screened from the highway. The proposed sales office for Eagle Crest is oriented to face the highway, not the resort, and is in an area that is

visible from Cline Falls Highway. The Hearings Officer finds that the location of the sales office must be screened from the highway and that the back, rather than the front, of the building should face the Cline Falls Highway. No parking shall be placed between the sales office and Cline Falls Highway. No sales office signage or ground mounted signs advertising the sales office may be visible from Cline Falls Highway. These conditions have been made conditions of approval of the CMP and FMP.

Area 11 on the CMP is proposed to be a "combined development area, with potential uses including but not limited to hotel, sports facilities, conference center, business development center, pool and tennis courts, golf course related facilities, and residential." This area is the portion of the proposed resort closest to the Highway 126/Cline Falls Highway interchange, and if developed as contemplated, could form a primary attraction for visitors to the resort. In order to comply with this section regarding commercial uses, the development and uses allowed in this area shall not include any commercial facilities.

- R. A plan exists to ensure a transfer of common areas, facilities such as sewer, water, streets and responsibility for police and fire protection to owners' associations or similar groups if contemplated. If such transfer is not contemplated, the owner or responsible party shall be clearly designated. Adequate open space, facility maintenance and police and fire protection shall be ensured in perpetuity in a manner acceptable to the County.

FINDING: According to the Applicant's Burden of Proof Statement, page 44, the long-term responsibilities of the various homeowners' associations are disclosed in Exhibit 12, the Vacation Resort Owner Documents, Exhibit 13, the Estate Homesite Owner Documents, and Exhibit 14, the Estate Homesite Association - ARC. The same form of ownership and transfer of authority provided in these documents is intended to be carried through to Eagle Crest Phase II. These exhibits contain highly specific covenants, conditions, restrictions, and responsibilities of the homeowners' association, as well as the designation of authority to enforce the CC&R's.

The above referenced exhibits appear to adequately address management of common and open space areas, as well as responsibility for public facilities and services such as sewer, water, streets, and police and fire protection for Phase I. If similar documents are executed for Phase II, these items should be adequately assured for Phase II. The same form of ownership and transfer of authority will be carried through to Phase II. The Applicant will be required to provide proof of compliance with this requirement, as a condition of FMP approval.

- S. Temporary structures will not be allowed unless approved as part of the CMP. Temporary structures will not be allowed for more than 18 months and will be subject to all use and site plan standards of this title.

FINDING: There are several "temporary" structures currently in use at Eagle Crest. These include the temporary modular sales offices located at the entrance to Phase I, a temporary modular day care center near the Inn at Eagle Crest, and a temporary golf pro shop for the Eagle Ridge Golf Course within the proposed Eagle Crest Phase II area. These are the only temporary structures shown on the CMP and are the only such structures allowed in the entire Eagle Crest Resort. As required by this section, any new temporary structures would be allowed for no more than 18 months from the date that CMP approval is final, and would be subject to all use and site plan standards. The temporary sales office must be removed no later than when the new sales office is occupied. The temporary golf course pro shop shall be removed no later than when the first plat in Phase II is approved.

T. The open space management plan is sufficient to protect in perpetuity identified open space values.

FINDING: Eagle Crest's Open Space Management Plan is identified as Exhibit 15. According to this Plan, open space at Eagle Crest includes developed areas such as the golf courses, the trail network, playing fields, and picnic areas, as well as undeveloped area including the natural area from the canyon rim to the center of the Deschutes River in Phase I.¹³ Access to the natural area is restricted to foot traffic only on two primary access trails, with a soft-surface walking trail and primitive picnic areas along the river. With exception of the two access trails, access to the area between the river trail and the canyon rim is totally restricted. Policies are in place and are enforced which prohibit littering, smoking, and discarding burning materials in the river area. Undeveloped open space areas are under the ownership of the Eagle Crest Master Association of Homeowners. Management of the open space areas are controlled by recorded CC&R's, which guide management and strictly limit the uses allowed on the open space property. The Applicant shall provide proof to the Planning Director, prior to FMP approval, that the CC&Rs bind all of the property included within the resort.

As stated previously, the Hearings Officer has noted serious deficiencies in the Open Space Area map. Areas that do not qualify as open space have been shown as open space on the Applicant's CMP and Open Space Area map (Exhibit 70). This map must be revised to comply with the County's open space requirements. This has been required as a condition of approval of this decision. This may require the Applicant to revise the CMP to enlarge open space areas and that all such areas must be clearly shown on a revised and accurate Open Space Area map.

¹³Playing fields and highly developed picnic areas do not qualify as open space under the County's ordinance.

- U. A mechanism to ensure that individually-owned units counting toward the overnight lodging total remain available for rent for at least 45 weeks per calendar year through a central reservation and check-in service. Such a mechanism shall include all of the following:
- a. Designation on the plat of which individually-owned units are to be considered to be overnight lodging as used in this chapter;
 - b. deed restrictions limiting use of such identified premises to overnight lodging purposes under this chapter for at least 45 weeks each year;
 - c. inclusion in the CC&Rs of an irrevocable provision enforceable by the County limiting use of such identified units to overnight lodging purposes under this chapter for at least 45 weeks each year;
 - d. inclusion of language in any rental contract between the owner of the unit and any central reservation and check-in service requiring that such units be made available as overnight lodging facilities under this chapter for at least 45 weeks each year; and
 - e. a requirement that each such unit be registered and a report be filed on each such unit yearly by the owner or central booking agent on January 1 with the Planning Division as to the following information:
 1. Who the owner or owners have been over the last year;
 2. how many nights out of the year the unit was available for rent through the central reservation and check-in service; and
 3. how many nights out of the year the unit was rented out as an overnight lodging facility under this chapter. (Ord. 92-004 ss 13, Exhibit C, 1992).

FINDING: On page 45 of the Burden of Proof Statement, the Applicant states that "it is not anticipated that any individually owned units are going to be necessary for counting the overnight lodging requirements except those within the Vacation Ownership area. Those Vacation Ownership areas are defined as timeshares meeting the criteria of overnight accommodations.

As discussed above, the townhouse timeshare units, and possibly the 1/5 share condominium units, can be counted as overnight accommodations. None of these units are individually owned.

The Applicant has provided a Rental Agency Agreement Form, Exhibit 32, which provides the mechanism for the rental of individually owned units.

COMPREHENSIVE PLAN POLICIES

The Hearings Officer makes the following findings regarding the policies contained in the Comprehensive Plan:

1. "The purpose of the Comprehensive Plan . . . is not to provide a site-specific identification of the appropriate land uses which may take place on a particular piece of land but rather it is to consider the significant factors which affect or are affected by development in the County and provide a general guide to the various decisions which must be made to promote the greatest efficiency and equity possible, while managing the continuing growth and change of the area." [p.1, Comp Plan] As a general rule, the Comprehensive Plan does not provide specific review standards for land use applications. Some sections do, however, include specific requirements and these requirements are discussed, below.
2. Pages 4 through 14 of the Plan contain definitions of terms that relate to destination resorts. These definitions are consistent with the definitions contained in DCZO 18.113.060, the County's destination resort ordinance.
3. Residential/Recreational Development Policy 1 states that future rural development will be stringently reviewed for public need before approval [p. 37, Comp Plan]. The Hearings Officer finds that Deschutes County has determined that the subject property is needed for destination resort development as it specially designated it for that purpose as a part of its Goal 8 mapping and designation process. The Hearings Officer also finds that Residential/Rural Development Policy 5 determines that there is a need for destination resorts in appropriately designated areas. That policy provides that "[d]estination resorts are important elements of the local economy. These developments shall not be permitted in exclusive farm use districts except in EFU-20 and EFU-40 zones pursuant to the County's Destination Resort Siting Map and Destination Resort Siting Combining Zone. . . They may be allowed in other rural areas if compatible with the environmental capabilities of the site, near existing transportation and utility facilities, consistent with the rural character of the area, and unlikely to create undue public service burdens." [p.38, Comp Plan]
4. The Comprehensive Plan contains a section entitled "DESTINATION RESORTS" at pages 122 through 127. This section states that there are numerous beneficial impacts of destination resort and that such resorts can diversify the economic base of the County. This section of the Plan states, and the Hearings Officer finds, that the zoning ordinance provisions applied in review of this CMP application were developed to implement Goal 8 requirements and to assure compliance with the

Comprehensive Plan goals. The ordinance has been acknowledged by LCDC as complying with statewide land use planning goals.

5. The subject property has been mapped as a destination resort development area according to the destination resort mapping process provided in Policies 1 through 4 of the Destination Resorts section of the Comprehensive Plan [pp. 124 - 125].
6. Policies 5 through 9 of the Destination Resort section of the Comprehensive Plan lists ordinance provisions which are to be included in the County's destination resort ordinance. These provisions are included in DCZO Chapter 18.113, as required by the Plan.
7. Policy 19 of the Fish & Wildlife section of the Comprehensive Plan states that "an application for a destination resort, or any portion thereof, in a wildlife area combining zone shall not be accepted pending completion of the County's Goal 8 destination resort mapping process. The County shall complete the Goal 8 mapping process by December 31, 1992." The County has completed the Goal 8 mapping process for the subject property but has not completed the Goal 8 mapping process for the entire County as its mapping process was the subject of a legal challenge in 1992. No portion of Eagle Crest Phase I or Phase II is located within a wildlife combining zone or a sensitive bird and mammal combining zone. This policy, therefore, does not preclude approval of a destination resort on the subject property.
8. The Historic and Cultural section of the Comprehensive Plan [pp. 161 - 164] describes the general framework for identifying and protecting historic and cultural sites. Two archeological sites exist in Phase I of the subject property. The Plan contains no provisions that prevent resort development of property that includes such sites.
9. Water Resources Policy 10 [p. 167] states that "[a]ny project which would endanger the purity of local ground water shall be vigorously discouraged." The Hearings Officer finds that the criteria of DCZO 18.113.070 provides adequate discouragement for projects that endanger the purity of local ground water. The types of activities proposed by the Applicant are common throughout the developed residential sections of the County. It is well understood that commercial agricultural activities utilize pesticides and other chemical in their activities. The Hearing Officer finds that golf course and lawn irrigation and chemical use presents no greater threat to the purity of local ground water than do such agricultural activities.

18.132 - VARIANCE CRITERIA

In addition to the conditional use application for a conceptual master plan, the Applicant is also requesting approval of a Variance to the road setbacks contained within the Destination

Resort Combining Zone. The exterior setbacks as set forth in Section 18.113.060(G)(b)(1) requires an exterior setback of 100 feet for roads, 50' for golf courses, and 50' for jogging and bike trails where they abut private property.

The Applicant has addressed the variance criteria of Chapter 18.132 on pages 25 through 30 of the Burden of Proof Statement. A detailed map of the variance area has been prepared as Exhibit 38.

The Applicant is seeking a Variance for four sections of road and one section of bike path to allow these facilities to be sited within the minimum setbacks. These variances are requested to allow the Applicant to utilize an interconnected road system pattern which encircles large sections of the Phase II golf courses. The first road and bicycle path sections that are proposed to encroach on the setback area lie behind the number 13 green and the number 17 tee of the Eagle Ridge Golf Course which is currently in use and immediately adjacent to the Cline Fall Oasis Subdivision (Inset A on Exhibit 38). 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 (Inset B, Exhibit 38). The third road section lies at the end of the 7th tee adjacent to lands managed by the BLM (Inset C, Exhibit 38). The final section of road lies behind the number 3 green on the southwest corner of the project (Inset D, Exhibit 38).

The Eagle Ridge Golf Course was given conditional land use approval in 1990 (File Nos. CU-90-189 and SP-90-115) prior to the time the Destination Resort Overlay Zone and its resort setbacks were adopted by the County. In 1992, after the County adopted setbacks for golf courses in destination resort, the Applicant filed a revised site plan for the golf course. The Applicant stated that the revised plan was intended to meet a condition of approval of the conditional use approval. The 1992 plan also moved the location of some of the golf course holes, fairways and greens. A number of these changes moved golf course facilities into or further into required setback areas. Additionally, by the time that the Applicant sought to finalize approval of the golf course conditional use permit, it appears that the permit may have become void, according to the terms of condition #8 of that approval. This fact was not, however, considered by the Hearings Officer, in reviewing the variance as it was not essential to decision of the variance application.

The following criteria from Section 18.132.020(A), Area Variance, are applicable:

1. **A variance may be granted unqualifiedly or may be granted subject to prescribed conditions, provided that the Planning Director or Hearings Body shall make all of the following findings:**
 - A. **That the literal application of the ordinance would create practical difficulties resulting in greater private expense than public benefit.**

FINDING: The Applicant states that the subject roadways and bike paths are located in required setback areas because it is necessary to do so in order to design a road

and bicycle system with a good circulation pattern. The Applicant states that it is necessary to encroach upon the setback areas in order to get around the tees, greens and holes constructed on the Eagle Ridge Golf Course in four sections of Phase II. The Hearings Officer finds, however, that the literal application of the setback standards of the ordinance will not create any practical difficulty in some of the setback variance areas requested. This is because it is possible to accommodate a road and bicycle path that creates a reasonable traffic pattern in these areas. These areas are:

Inset A/Hole # 13

The first road and bike path sections that are proposed to encroach on the setback area lie behind the number 13 green and the number 17 tee of the Eagle Ridge Golf Course which is currently in use and which is located adjacent to the Cline Fall Oasis Subdivision (Inset "A" on Exhibit 38). Hole #13 was moved from 218 feet from Cline Falls Oasis in the 1990 plan to approximately 175 feet from Cline Falls Oasis in the CMP, in the area where the variance to setback standards is sought. It appears that the Applicant has asked for the variance to allow a buffer of approximately 100 feet between the golf course and the proposed road. The Hearings Officer finds that there is no reason why the road cannot be located more than 100 feet from the property line with Cline Falls Oasis and why the bicycle path cannot be sited 50' away from that line, as required by the destination resort ordinance.

Inset C/11th Hole

The third road section lies at the end of the 7th tee adjacent to lands managed by the BLM (Inset C, Exhibit 38). The 7th tee is located approximately 200 feet from the nearest property boundary. There is sufficient area to accommodate a road around this tee within the 100 foot wide area between the tee and the property boundary. It appears that the Applicant has requested this variance in order to maximize the number of building lots that can be included in this area of Phase II or to accommodate a sweeping road pattern.

As to the remaining areas for which a variance is requested, a literal application of the ordinance would require that the Applicant find other locations for these roadway sections and bike path. Elimination of these road and path sections from the CMP would require the Applicant to redesign the road pattern, acquire adjoining property for use as a setback area or to move golf course sections. Redesign of the road system appears to be the least onerous. This option may not work a significant hardship on the Applicant because it appears to the Hearings Officer that more open space will need to be provided in order to meet the 50% open space requirement. The areas where road sections are planned and some of the areas they access are remote areas of the golf course that would make good areas for open space. This change will create a better buffer between the resort and its neighbors and may make

the resort more attractive and appealing to potential resort property owners. The major negative of such a redesign is that it will result in long cul-de-sacs, which are generally discouraged by County policies and ordinances due to impacts on traffic circulation and emergency access.

The area of inset "A" is the only portion of the variance request that is adjacent to private property. In this area, the proposed bike path will be 10 feet closer to Cline Falls Oasis than allowed by the setback and the road will be at least 50 feet closer than allowed by the required setbacks. The Applicant states that a substantial private expense would be incurred if these roadways had to be eliminated or the golf course changed. The Applicant has not explained what financial expense would be incurred if the roads were not located as planned. The financial expense of relocating the golf course is obvious. The Hearings Officer has found that the variance is not needed for the majority of the area shown on Inset "A" (the lower three quarters of the inset shown on Exhibit 38). The Hearings Officer also finds that this requested variance in the area shown on Inset "A" will also place a burden on adjoining private property owners. The location of resort roads closer than allowed will deprive these property owners of a significant portion of the buffering that was determined to be appropriate between the intensely used resort property and the low-density rural residential development found in places like Cline Falls Oasis. Allowing use of the setback area for a road and bike path might also preclude its use to provide utility services to Cline Falls Oasis homes. This problem was brought to the attention of the Hearings Officer and Applicant by Cline Falls Oasis homeowner, Linda Burwell. The Hearings Officer did not find any response to this issue in the materials submitted by the Applicant and no response was made at the hearings. A reading of the Applicant's 1990 Phase II golf course application file indicates that the patents received to the Phase II property included numerous utility company easements. Some of these easements cross the land sections that include the areas where variances are requested. Cline Falls Oasis are used by the utility company for access to power lines that service the Cline Falls Oasis area. In the aforementioned golf course approval in 1990, the Applicant was required to satisfy BLM concerns which included a concern that the Applicant should indicate all BLM easements on their maps. These easements have never been completely located and identified by the Applicant. If this variance were to be granted, it would be essential to determine whether the Applicant's requested use would interfere with the prior rights granted to utility companies on the Phase II property.

All three remaining areas abut vacant public lands managed by the BLM. There would be little public benefit in requiring that these roads be located in a different location as the BLM property is largely undeveloped. The primary public benefit of requiring the Applicant to comply with the setback standard would be to enhance the value of adjoining BLM land as deer and wildlife habitat or as a cattle grazing area.

- B. That the condition creating the difficulty is not general throughout the surrounding area but is unique to the Applicant's site.

FINDING: The condition creating the difficulty is unique to the Applicant's site and not general throughout the surrounding area. No other surrounding properties, other than Phase I Eagle Crest, are zoned for destination resort sites and have received conditional use approval for golf course development prior to adoption of the exterior setbacks established in the Destination Resort Combining Zone.

- C. That the condition was not created by the Applicant.

FINDING: At the time of application for the golf course the Applicant could not have known that there would be a future requirement for a 100 foot road and 50 foot bike path setback. The Applicant would, however, have known of this fact when it filed its revised golf course plan in 1992. The filing of that plan was a step that the Applicant was required to take prior to obtaining a permit to build the golf course. The Applicant chose, however, to file and proceed with the plan in 1992, knowing that the locations shown on the plan would cause it difficulty in meeting resort setbacks.

Most significant, however, is the fact that the condition that gives rise to the request for a variance was created by the Applicant in 1992, after adoption of the current destination resort ordinance and its setback standards. If the Applicant had built the Eagle Ridge golf course in compliance with the 1990 approved golf course site plan, a variance would not have been needed for any of the areas shown on the Applicant's insets.

Inset A/Holes 13 & 17 Existing Course

The Applicant has not proven that a variance is needed in the area of the 13th Hole. The road/bicycle sections near Hole #13 can be accommodated between the golf course and the setback area. Additionally, the location of Hole #13 on the golf course plan was moved from a location, in 1990, of approximately 218 feet to a location, in 1992, approximately 175 feet from the Cline Falls Oasis boundary.

As for Hole #17, the closest point of that course to a property boundary, in the 1990 plan (the tees), is approximately 180 feet from the Cline Falls Oasis property line. Hole #17 was located approximately 100 feet from the property line on the 1992 plan and on the CMP. The Hearings Officer finds that the location shown on the 1990 plan allowed enough area for the Applicant to place the road around the outside of this hole. The 1992 revisions, however, make it impossible to meet the 100 foot road setback, without removing a portion of the golf course or acquiring property from adjoining property owners. The Applicant, therefore, created its own hardship in this area.

Inset B/Hole #13 Tee

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 (Inset B, Exhibit 38). The location of the 13th tee was approximately 175 feet from the western property line of Phase II. This location would have allowed the Applicant to locate the proposed road outside of the 100' wide setback area. The Applicant moved the 13th tee to approximately 50 feet of the western property line, necessitating this variance request and creating its own hardship.

Inset C/Hole #7

As discussed above, the Applicant has not proven that a variance is actually needed in order to fit the road and bicycle paths within the setback areas in this area.

Inset D/Hole #3

The final section of road for which a variance is sought lies behind the number 3 green on the southwest corner of the project (Inset D, Exhibit 38). In the 1990 plan, it appears that no portion of Hole #3 of the existing Phase II golf course was located any closer than 178 feet from the resort property boundary. No road or bike path variance would have been needed in this area if Hole #3 were built where it was approved in 1990. Hole #3 is now located approximately 50 feet from the BLM property line and requires a variance if the road to go around the outside of this hole. The Applicant has, therefore, created its own hardship.

The Applicant also argues that they had no idea that such a setback requirement would be imposed when it purchased or agreed to purchase the site. The Applicant assumed that a reasonable number of roads could abut adjoining properties to accommodate the layout of the Eagle Ridge Golf Course and to provide access for homes that would surround the golf course. The Applicant states that it had no knowledge that such a restriction would be imposed at the time the golf course was constructed.¹⁴ This argument is, however, without much merit, as the Applicant purchased the golf course in 1990, when destination resort or golf course homesite development was prohibited on the property. Any expectation about the properties capacity to accommodate resort development and to maximize lot space by placing golf courses and roads close to or abutting property boundaries was purely speculative as it was not known what conditions might be imposed upon such development, if allowed in the future. The Applicant took a calculated risk by purchasing the property and proceeding with golf course development before the rules regarding

¹⁴As mentioned previously, ORS 197.460 was adopted prior to 1990 and required the County to establish buffer areas and setbacks for structures and improvements in destination resorts.

resort development on EFU lands, such as Phase II, were established. The Applicant then enhanced that risk in 1992, after adoption of the resort ordinance setbacks, by moving the location of the course closer to the property boundaries than approved in 1990. As the hardship was created by the Applicant, it is not appropriate to allow a variance to setback standards.

D. That the variance conforms to the Comprehensive Plan and the intent of the ordinance being varied.

FINDING: Page 7 of Ordinance No. 92-001, an amendment to the Comprehensive Plan adding goals and policies regarding the siting of destination resorts, contains the following goal:

"To provide for development of destination resorts in the County consistent with Statewide Planning Goal 8 in a manner that will be compatible with farm and forest uses, (and) existing rural development . . ."

On page 8, Ordinance 92-001 lists ordinance provisions to be enacted to implement the goals of the Comprehensive Plan. To minimize the adverse effects of resorts on surrounding land uses, minimum measures are to include:

"The establishment and maintenance of buffers between the resort and adjacent land uses, including natural vegetation and where appropriate, fences, berms, landscaped areas, and other similar types of buffers."

"Setbacks of structures and other improvements from adjacent land uses."

The purpose and provisions of Chapter 18.113 of title 18 mirror these Comprehensive Plan goals and policies. The 100 foot setback for roadways and the 50 foot setback for jogging trails and bike paths found in Section 18.113.060(G) are intended to provide the buffer between resort development and adjacent lands required by the Comprehensive Plan. Allowing the Applicant to violate the setback standards that were adopted to implement these sections of the Comprehensive Plan, under the circumstances presented in this case, would be inconsistent with these provisions of the County's Comprehensive Plan.

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.

6. The Applicant shall revise its sewer master plan 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 for the entire resort and shall indicate where all sewage system facilities will be located.
7. The Applicant shall designate the location of all utility lines and easements that burden the property on the FMP, 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. The Applicant shall also identify any areas currently used by utility companies to provide power to area residents that are not included in easement areas, if any. If some utility facilities are located outside of easements, the Planning Director or Applicant shall contact affected utilities to determine the length of time that these areas have been used by the companies and whether the companies intend to claim a prescriptive right to continue to use these areas. If the Planning Director determines that the utility companies are entitled to remain on portions of Eagle Crest property due to prescriptive rights, the Applicant shall be required to show those areas on the FMP as utility easement areas.
8. All portions of Eagle Crest resort must be managed and operated as one unit and as a self-contained development. The Applicant and its successors and assigns must assure owners and overnight visitors to either phase of the Eagle Crest Resort complete access to all areas open to use by owners and overnight visitors in the other phase. Failure to comply with this standard will void resort approval.
9. The Applicant shall accurately identify uses for the "combined development" area in Area 11 of Phase II, prior to FMP approval. The Applicant must remove the "including, but not limited to" language from its description of allowed uses.
10. The Applicant will be required to designate all currently existing commercial uses on the final master plan so that it is clear what uses have been allowed by this approval.
11. The Applicant shall further define what commercial uses may be allowed in the proposed commercial areas of Phase I and Phase II so that there is an exhaustive list of commercial uses allowed in the resort that shall be included with the FMP. All uses not listed shall not be allowed. Thereafter, the Applicant shall revise the sewer master plan to include demand estimates that include all commercial uses, including restaurants, stores, sales office, day care, pools, stables, golf pro shops, etc. If the increase in demand alters the demand for sewer facilities, appropriate changes shall be made to that plan. Compliance with this condition shall be assured by review by the Deschutes County Planning Director prior to approval of the FMP.
12. The commercial uses permitted in the destination resort will be limited in type, location, number, dimensions and scale (both individually and cumulatively) to that

necessary to serve the needs of resort visitors. A commercial use is necessary to serve the needs of visitors if:

- a. Its primary purpose is to provide goods or services that are typically provided to overnight or other short-term visitors to the resort, or the use is necessary for operation, maintenance or promotion of the destination resort; and
 - b. the use is oriented to the resort and is located away from or screened from highways or other major through roadways.
13. Commercial, cultural, entertainment or accessory uses provided as part of the destination resort will be contained within the development and will not be oriented to public highways adjacent to the property. Commercial, cultural and entertainment uses allowed within the destination resort will be incidental to the resort itself. As such, these ancillary uses will be permitted only at a scale suited to serve visitors to the resort. No such events may be conducted in any part of Eagle Crest after CMP approval is final. Compliance with this requirement shall also be included as a condition of FMP approval. No commercial activities that are intended to draw a large number of participants from outside of the resort boundaries, such as the Dixieland Jazz Festival, StarFest and public auctions may be conducted on any part of the resort property.
14. The Applicant and its successors shall guarantee that all open space used to meet the 50% open space requirement of the destination resort ordinance complies with DCZO 18.113.030 (E) which provides that "[u]ses 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."
15. The Applicant shall revise the Open Space Area map (Exhibit 70) so that it properly excludes all areas that were erroneously included by the Applicant as open space (as described in the findings of this decision) and shall demonstrate that the 50% open space requirement of the destination resort ordinance is met, after revisions are made. The Applicant may be required to designate additional area as open space in order to meet this requirement. A revised open space map must be submitted at the time of Final Master Plan review and it must include at least 50% open space. The Applicant shall also furnish proof that all open space area has been permanently reserved for open space, prior to FMP approval.

16. The resort's day care center use is hereby limited to providing child care services for children of employees and guests of the resort.
17. The Applicant shall provide an economic impact and feasibility analysis of the proposed development that indicates that the resort development is economically feasible, prepared by a qualified professional economist or financial analyst, which addresses the economic viability of the proposed development. This analysis shall consider the income that could be anticipated from the resort operations and compare that income to project expenses. The Applicant will be required to supply this information to the Deschutes County Planning Director, prior to FMP approval. The Director will determine whether the report is adequate and whether it establishes that the proposed development is economically viable. If the report is not adequate, the report may be corrected to provide all information needed by the Planning Director. If the report does not establish that the proposed development is economically viable, this permit shall be void and FMP approval may not be granted.
18. The Applicant shall provide the Planning Director with a listing of any and all 1/5 share condominiums or timeshares, for which all shares of the unit are owned by a single owner or cotenants prior to FMP approval and at the time that each phase of development is platted so that the Director may determine that the ratio of visitor-oriented accommodations to residential units [DCZO 18.113.070(E)] is being met by the Applicant. The Planning Director shall verify that this ratio is met at the time of FMP and plat approval for each phase of development of the FMP.
19. The setback standards for the existing Eagle Crest resort are those setbacks established in prior land use approvals and those provided under other portions of the county zoning ordinance, according to DCZO 18.113.025 (B). This includes river and rimrock standards that are currently stated in other portions of the zoning ordinance. The existing resort must continue to comply with these standards as it contains rimrock and riverfront property.
20. All single-family residential lots shall comply with the standard 8 foot solar fence south-wall protection requirement of the County's solar setback ordinance. Exceptions to allow a 14 foot solar fence south roof-protection standard shall be reviewed and approved by the Planning Division, on a case by case basis, as individual property owners develop their lots, as allowed by the terms of the solar setback ordinance.
21. All multi-family units, commercial structures, and other resort facilities are exempted from the requirements of meeting solar setback standards, except for where their shadow would impact a single-family residential lot within or adjacent to the resort. A 14 foot solar fence standard should apply when shadows cast by multi-family, commercial structures or other resort facilities affect residential structures of any

type. If the shadow of a structure affects a commercial or nonresidential resort structure, no solar setback will be required.

22. Development within Eagle Crest Phase II and the CRT expansion area of Phase I shall comply with the following conditions:

Single Family Residential Lots. All provisions of DCZO Chapter 18.108, Planned Communities, regarding minimum lot area, width, lot coverage, frontage and yard requirements and building heights, that apply to RS District lots in a planned community shall apply to all single family residential lots in Phase II and to all CRT lots.

Multi-Family and Condominiums. All provisions of DCZO Chapter 18.108, Planned Communities, regarding minimum lot area, width, lot coverage, frontage and yard requirements and building heights, that apply to RM District lots in a planned community shall apply to all multi-family and condominium lots in Eagle Crest Phase II.

Commercial and Resort Amenities. Any Phase II lot designated and developed for commercial development or for resort services or recreational activities shall be subject to the provisions of DCZO Chapter 18.108 that apply to lots located in the C District of a planned community.

Building Height. The provisions of DCZO 18.120.040 regarding exceptions to and exemptions from building height restrictions shall apply to Eagle Crest Phase II buildings.

Definitions. The definitions that shall apply to measurement of building height, average lot width and yards are those contained in the definitions section of Title 18.

Off-Street Parking and Loading. Off-street parking and loading space shall be as provided in Section 18.116.160 as it is presently written. Single family residences shall have a minimum of two off-street parking spaces. Multiple family units shall have a minimum of one off-street parking space per dwelling unit. The Applicant shall comply with future amendments to that section, if any, for uses that are developed and approved after the section is amended.

Maximum Average Lot Size. No lot for a single-family residence shall exceed an overall project average of 22,000 square feet in size.

References to DCZO. All references to DCZO standards shall apply to the DCZO ordinance in place at the time of development application, unless such standards have been repealed and not replaced by a new section. In such event, the reference shall be to the ordinance as it was written at the time it was repealed. In the event that

sections have been renumbered, the newly numbered section may be utilized, in place of the section number cited by the Hearings Officer.

23. The Applicant shall revise the submitted CMP so that all bike paths, road sections, unconstructed golf course facilities and all other resort facilities meet the setback standard of DCZO 18.113.060(G)(b), including the sections of the golf course in Phase II that is located within close proximity to Cline Falls Highway. All future Phase II and CRT expansion area development, including the second, unconstructed Eagle Ridge golf course, shall comply with these setback requirements.
24. The Applicant must establish that the currently constructed golf course is a valid nonconforming use and, when altered to include golf course homesites, will comply with the standards of DCZO 18.120.010. The Applicant shall file an application for determination of a nonconforming use as to those portions of the constructed golf course that lie within the setback areas. That application shall be reviewed and decided by the Deschutes County Planning Director according to the law applicable to nonconforming uses.
25. The Applicant will be excused from complying with Condition #24 if it does any of the following: (1) purchases additional property along the areas of the golf course that encroach upon the setback and adds them to the destination resort property so that there is a 50 foot buffer between all sections of the existing Phase II golf course; or (2) obtains a variance from the 50 foot golf course setback requirement for the location of the first golf course; or (3) excludes the already constructed golf course area from the destination resort; or (4) moves those portions of the existing golf course that encroach upon the 50 foot setback area; or (5) obtains a legislative amendment to the destination resort ordinance to allow this condition to exist as to the already constructed golf course which, in the opinion of the Deschutes County Counsel, is legally applicable to this application and sufficient to cure the setback problem posed by the destination resort ordinance for the existing Eagle Ridge golf course.
26. The Applicant shall obtain a new conditional use permit for the second Eagle Ridge golf course, prior to FMP approval and any construction of that course, unless it can establish, to the satisfaction of the Deschutes County Planning Director, that all conditions of the 1990 conditional use permit issued for construction of that golf course were met prior to December 12, 1991.
27. The proposed platting of the CRT Expansion area must comply with the 150 foot minimum required setback for above-grade development. The proposed Lot 46 of "Area XV" in the Canyon River Territories (Exhibit 4) is situated so that it abuts an exterior property line of the resort property. This lot is only 126 feet wide, so there would be no buildable area on the lot outside of the 150 foot minimum setback. In addition, Lot 45 directly south of Lot 46 also lies partially within the 150 foot

minimum setback, thus eliminating a substantial portion of this lot from residential development. If the configuration of CRT lots is to be shown on the FMP, the layout of those lots must be revised so that no portion of a residential lot is situated within the 150 foot setback from any exterior resort property boundary.

28. The areas of the resort property that are within the flood plain should be shown on the Applicant's flood plain map and excluded from the Applicant's open space calculations. No development is proposed within the flood plain. The Applicant shall convey a conservation easement along the Deschutes River as described in Section 18.116.220 of Title 18 for any portion of the property that is located within the 100 year flood plain, but that is not included in the land covered by the current conservation easement granted by the Applicant along the Deschutes River.
29. The Landscape Management Combining Zone (LM) requirements of Chapter 18.84 shall apply to all portions of the destination resort included within that zone. This includes all new development within 1/4 mile of the Deschutes River and/or Highway 126.
30. Eagle Crest will be required to be developed as a self-contained development as a condition of approval of this CMP application and all future land use approvals within the resort area.
31. The Applicant shall specify all recreational facilities and other key facilities within all proposed phases of Phase II. The Applicant shall also indicate which areas of Phase II the recreational and key facilities are intended to serve. The Applicant shall provide those facilities prior to the sale of lots in any phase that is served by such recreational or key facilities or shall guarantee construction of those facilities through surety bonding or other financial assurances approved by the County Counsel for Deschutes County. Specifically, the entire second golf course must be completed or bonded prior to the sale of lots in any phase that adjoins or includes a portion of the Phase II golf course, unless the Applicant removes the second golf course from its FMP design of Phase II, in order to comply with other conditions of CMP approval.
32. The Applicant may not conduct or allow the conduct of any activities not specifically listed in this decision or in the list of allowed uses contained in the County's destination resort ordinance. Any similar use must receive approval from the Deschutes County Planning Division as a similar use, prior to construction. No industrial uses are allowed on resort property.
33. Appropriate assurances shall be submitted by lending institutions or other financial entities that the developer has or can reasonably obtain adequate financial support for the proposal once approved, prior to FMP approval, as outlined in the Required Findings section, above.

34. An independent economic analysis of the impact of allowing this resort application and that determines the economic impact of changes in employment, demands for new or increased levels of public service, housing for employees and the effects of the loss of resource land and other indirect costs and revises the Hobson and Associates study to reflect all costs and benefits from the resort development shall be conducted prior to FMP approval. If the economic analyst finds that the resort will provide a substantial financial contribution which positively benefits the local economy throughout the life of the entire project, Eagle Crest will be allowed to obtain FMP approval without taking any actions to offset the costs incurred by the County, school district and community at large. If the analyst finds that Eagle Crest will not make a positive contribution, the analyst shall enumerate various ways in which Eagle Crest may correct this problem and shall estimate the economic impact of that action. Eagle Crest shall then select, from the list of options presented, actions that have the effect of reaching the goal of this section. Those actions must either be completed prior to FMP approval or be included in the conditions of approval of the FMP, at the option of the Planning Director. The independent economic analyst shall be selected by and shall report directly to the Planning Director. The costs of this study shall be borne by Eagle Crest. Payment of the costs of conducting the study shall be assured prior to commencement of the study.
35. Prior to FMP, the Applicant shall cause a study of the impact of Phase I, as constructed at this time and at build out, on fish and wildlife resources. Any negative impact on fish and wildlife resources will be completely mitigated so that there is no net loss or net degradation of the resource.
36. The FMP shall not be approved until such time as the Applicant has either completely mitigated all resort impacts on wildlife or has assured that such impacts will be mitigated after FMP approval by the imposition of enforceable conditions of approval, inclusion of wildlife protection obligations in covenants and restrictions that will burden all expansion area properties (CRT & Phase II), adoption of wildlife regulations by the resort's owners' association and by the execution of development agreements, where appropriate. The Applicant shall prepare and file a comprehensive wildlife mitigation master plan that explains how each mitigation measure will be or has been assured, prior to FMP approval. This explanation must be supported by documentation of consent by all landowners whose property will be used to meet the mitigation measures.
37. The following mitigation measures shall be completed or adequately assured, as discussed above, prior to FMP approval:
 - A. Where possible the 150 to 250 foot buffer required around the perimeter of the project site should be retained in a natural, undisturbed condition to provide habitat for wildlife.

- B. Project landscaping should be designed to enhance and provide habitat for wildlife. Maintain as much of the existing habitat as practicable between residences, including the understory of sagebrush and grasses. Plant and develop shrub and tree patches within open space around residences to provide habitat structure and diversity important to many species of wildlife. Incorporate native and naturalized species with ornamental landscaping to provide a diversity of plant species attractive to native wildlife.
- C. The Applicant shall outline all areas that will be reserved in its natural state, as outlined in 35. A. & B., above and shall assure that no lawns are allowed in these areas through covenants and restrictions that will bind purchasers of property that is located in those areas. The Applicant will not, however, be required to include golf course holes, greens and fairways located in the 150 and 250 foot setback areas in a natural state.
- D. Develop an animal control policy consistent with the Deschutes County Comprehensive Plan to minimize harassment of wildlife, particularly that of deer by dogs. Property owners shall be required to keep dogs within maintained fenced areas or utilize other suitable measures to prevent dogs from straying off their property. When off premises, owners shall be required to maintain dogs either on leash or under verbal control.
- E. Regulate traffic speeds through posted speed limits not to exceed 20 mph. This speed limit shall not apply to any portion of Cline Falls Road.
- F. Erect and maintain bird boxes on wooden fence posts and tree trunks within open space areas to provide nesting sites for secondary cavity nesting species. Placement and dimensions of boxes should correspond to the likelihood of attracting appropriate species for the habitat present.
- G. Erect 2 to 3 nesting platforms for Canada geese on Eagle Lake.
- H. Increase the buffer of unmaintained shoreline on the north side of Eagle Lake to provide additional cover and habitat for wildlife. This part of the shoreline does not enter into play on the golf course.
- I. Develop riparian habitat along portions of the shorelines of new lakes where they do not hinder golf play. Plant shrub patches, seed with native grasses, and leave unmaintained to provide cover and wildlife habitat.
- J. Erect periodic raptor perch posts on existing transmission line poles which are of older designs and represent an electrocution hazard to raptors.
- K. Construct new electrical distribution lines for the development underground to

required by ORS Chapter 468. The Applicant's Erosion Control Plan, Exhibit 8, indicates that all surface water drainage will be contained on-site. This plan provides several erosion control methods which will be utilized by Eagle Crest in the construction process and in the design of roads and other facilities. The Applicant will be required to comply with this plan as a condition of approval of this CMP and of the FMP and to demonstrate that this plan complies with ORS Chapter 468.

- X. The Planning Director, with the assistance of ODF&W, shall assess to what extent the above listed mitigation measures have mitigated the fish and wildlife impact caused by the entire Eagle Crest resort on fish and wildlife habitat and resources, assuming that the most intensive development allowed by this approval will be undertaken by the Applicant and that all of the water that is withdrawn from the regional aquifer by Eagle Crest will reduce downstream flows in the Deschutes River by a like amount, starting at the point where the water from the aquifer enters the Deschutes River. If all impacts have not been mitigated by these measure, the Director and ODF&W shall develop a plan to mitigate the remaining impact through measures such as the purchase and rehabilitation of lands for fish and wildlife activities or for the protection of resources needed to assure fish and wildlife survival. The cost of undertaking these measures shall then be estimated and the Applicant shall be required to pay for the cost of undertaking these measures by making payments to an ODF&W trust fund that must be expended solely for mitigation activities.

Payments to the trust fund for the impact of Phase I, excluding the CRT property, shall be made prior to FMP approval. Payment for impacts caused by CRT expansion area shall be paid prior to platting of that area for building lots. Payment of the costs of mitigating the Phase II impacts shall be apportioned between the phases of the development in a manner that reasonably relates to the impact of each phase, and paid as a condition of plat approval for each phase.

- Y. The Applicant shall reimburse the County and ODF&W for the cost of determining the amount of the wildlife mitigation assessment, described in X., above.
- Z. The Applicant shall work with COID, BLM and the County if and when the new interchange (Highway 126 & Cline Falls Road) is built, to reclaim the areas adjacent to the existing Cline Falls Highway and Highway 126 adjacent to the property owned by COID (T15, R12, Sec. 14AO, Tax Lot 900). The Applicant shall remove the existing portion of the Cline Falls Highway that is abandoned and rehabilitate the road and dirt bike trails by tilling and seeding the property. Leave the area undeveloped, except for defined trails, to allow

eliminate avian electrocution hazards.

- L. Develop a joint project with the BLM on adjacent public lands to reduce potential adverse impacts on deer and improve the overall quality of wildlife habitat in the area. Potential activities include wildlife water developments, clearing and seeding of small patches of land, juniper thinning, snag creation, down log creation, brush pile creation and raptor perch posts.
- M. Develop an animal control policy to prevent harassment of wildlife.
- N. Create a wildlife education program.
- O. Develop riparian habitat along portions of any new lakes.
- P. Do not use poisonous baits to kill golf course rodents.
- Q. Work with ODFW and BLM to improve habitats on adjacent public lands.
- R. Any large expanses of fence built should be done to specifications which allow the passage of deer.
- S. Juniper habitats may be widespread, examples of ecologically balanced juniper-sage-bunchgrass communities containing "mature" older trees are extremely rare. The Hearings Officer interprets this comment as an indication that ODF&W that as many of these stands of trees should be protected when the subject property is developed. These areas should be identified and included as undeveloped open space areas on the FMP.
- T. 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.
- U. Sewage and stormwater disposal systems shall be designed and built to prevent contamination of the Deschutes River and the aquifer below the resort.
- V. 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. The Applicant shall provide an explanation of how this program will be accomplished, prior to FMP approval.
- W. Establish and implement an erosion control plan for all disturbed land, as

the area to act, in conjunction with the COID property as a wildlife corridor to the Deschutes River.

38. The Applicant shall inventory and protect all important natural features, including but not limited to, significant wetlands, riparian habitat and landscape management corridors. Riparian vegetation within 100 feet of streams, rivers and significant wetlands will be maintained. Alterations to important natural features, including placement of structures, is allowed so long as the overall values of the feature are maintained. The wetlands and riparian areas along the Deschutes River shall be completely identified on the FMP map.
39. To ensure that all traffic impacts from the proposal are adequately mitigated, approval of this CMP should be contingent upon the following conditions of approval:
 - * Applicant shall improve the Highway 126/Cline Falls Highway intersection so that it meets the full standards of the Oregon Department of Transportation. Eagle Crest is responsible for obtaining all required permits and approvals, including land use and Scenic Waterway (if applicable) approvals for construction of the interchange improvements prior to FMP approval. If the design and location of the proposed interchange is not approved by all permitting agencies, a different solution to the interchange traffic problem must be designed and approved prior to FMP review. Eagle Crest shall financially guarantee completion of the project through surety bonding or substantial financial assurances approved by the County prior to the closure of sale of individual lots or units in Phase II or CRT, as required by DCZO 18.113.110. The project shall be completed no later than when the impacts created by the resort development require the improvement. This date shall be determined by the Planning Director, prior to FMP approval. As the traffic study submitted by the Applicant did not include all resort generated traffic, the impact of commercial, sales office, employee and vendor traffic will need to be estimated and used to determine when the improvements will be needed.
 - * Applicant shall cause a traffic light to be installed at the intersection of Highway 20 and Cline Falls Highway prior to FMP approval. If ODOT refuses to allow installation of this traffic light, the Planning Director shall determine, by consultation with ODOT, the level of improvements that ODOT believes are warranted and shall require those improvements prior to FMP approval.
 - * The Final Master Plan for the proposed CMP shall include the proposed interchange design and the realignment of Cline Falls Highway, if approved. If the interchange is not approved, the Applicant shall scale back the size of the Phase II expansion, as required by DCZO 18.113.070(G)(1) or limit its impact on road systems as required by DCZO 18.113.070(G)(3).

- * The Applicant shall make all interim improvements recommended by the traffic study (i.e. - signs, flashing beacon, shoulder widening) to the Highway 126 and Cline Falls Highway intersection, prior to FMP approval.
 - * If a Comprehensive Plan amendment is needed to approve an interchange connection, the amendment should be adopted prior to, or concurrent with, Final Master Plan approval.
 - * The Applicant is responsible for all permit, engineering, and physical improvement costs. The Applicant also, must place money in a trust account with the County for the improvement of Cline Falls Highway with money to be paid on a per lot sales basis, at a rate to be determined by the Planning Director, payment of which shall be included as a condition of Final Master Plan approval.
 - * Deschutes County shall revise the figures projected in the Kittelson studies to reflect all resort generated traffic and to correct the omissions cited by the Hearings Officer, prior to FMP approval. The Applicant shall reimburse the County for the cost of obtaining such an update.
40. All roads within the development shall be built to a width of 28 feet. Additionally, the Applicant shall comply with all applicable improvement standards established by DCZO Chapter 17. The Applicant shall develop a street plan, including street construction specifications for all Phase II and CRT expansion area streets, all new streets in the existing resort and for all intersections (crosswalks, signs, etc.). All street development shall comply with the street plan. This plan must be approved by the Planning Director prior to FMP approval. The plan shall also include plans for the Cline Falls Highway and Eagle Crest entrance roads intersection and for crossings at this location. Cline Falls Highway must be improved to at least 28 feet in width with left turn lanes and right turn deceleration lanes at both entrances (existing and proposed).
41. All bicycle paths that are separate from the roadways shall be a minimum of twelve feet in width to accommodate both pedestrian and bicycle traffic. The system of paths shall be fully designed and clearly shown on the FMP. The path system shall be designed to incorporate the suggestions for paths made by the Bicycle Committee to the extent determined appropriate by the Planning Director. If paths are included in street sections, the paths shall be of a width approved by the Deschutes County Public Works Department, but in no event may any roadway be less than 28' in width.
42. No structures may be constructed on any portion of the resort property where slopes exceed a grade of 25%.

43. Prior to FMP approval, the Applicant shall provide written proof from the Redmond RFPD that all portions of the resort have been annexed to the fire district.
44. The Applicant will be required to provide a minimum fire protection flow of 1000 gpm for residential uses and 2,500 gpm for commercial areas from fire hydrants located in all places within the resort identified by the Redmond Rural Fire Protection District. This condition must be met for the existing development (Phase I, excluding CRT) at the time of approval of the FMP. This condition must be met prior to final platting of CRT expansion area or any phase of Phase II.
45. The Applicant shall assure that "[a]dequate public facilities to provide for necessary safety services such as police . . . will be provided on the site to serve the proposed development" and that "adequate police . . . protection will be ensured in perpetuity in a manner acceptable to the County." The Applicant shall work with the Sheriff's Office to quantify the need for police facilities and services and to develop a plan to meet the need. The Planning Director shall review the plan and must determine that the plan meets the increased demand for police services and the requirements of DCZO 18.113.070 (R), before the Applicant may receive FMP approval.
46. The following list of water conservation measures shall be adopted for all Eagle Crest water users:
 - * 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 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 Applicant shall cause limits to be placed upon the hours of irrigation for all

system users, so that irrigation will occur during the hours of the day when it will do the most good. The Applicant shall demonstrate how these conservation measures will be enforced, to the satisfaction of the Planning Director, prior to FMP approval. The Applicant shall demonstrate to the County Planning Director, that it has adopted this conservation system for its entire water system (Cline Butte Utility Company) and that all users will be bound to comply with conservation measures.

47. The Applicant shall provide proof that all of its existing Eagle Crest water rights contain the standard OWRD water right conditions (approximately 15), including those items referenced by David Newton in his November 1, 1993 letter to Bill Lyche (Exhibit 67). If such conditions are not currently included in the existing Phase II water rights, Eagle Crest shall consent to written amendment of its existing permits to include these conditions. This requirement is imposed to protect the water rights of prior water users, to assure that OWRD will be able restrict Eagle Crest's use of water use in the event of a water shortage and to force a cessation of pumping if excessive declines in well water levels occur.
48. The Applicant shall obtain approval from the Oregon Water Resource Department for domestic water use in the Phase II property, as a condition of FMP approval.
49. The Applicant shall provide proof that Eagle Crest's water sources do not include any perched water sources, prior to FMP approval.
50. If a perched water table is pierced to access the regional aquifer, the well must be sealed off from the perched water table.
51. Prior to FMP approval, the Applicant shall design a mechanical treatment facility and complete sewage collection system, with at least two treatment plants to assure effective treatment of effluent during high flow and low flow periods. The facility shall be sited on a parcel of property within the destination resort that is large enough to accommodate all sewage treatment plant facilities, at least 23 acres in size. The Applicant shall set aside or obtain ownership of such a site and provide proof of ownership to the Planning Director, prior to FMP approval. The site must be shown on the FMP. Plans for the treatment facility shall include an effluent pond designed to hold effluent during periods when it may not be utilized for irrigation or other beneficial uses.
52. The Applicant shall obtain DEQ approval of the mechanical treatment facility and collection system plan, prior to FMP approval. If it is documented that DEQ approval is not available, the Applicant shall demonstrate to the Deschutes County Planning Director that the facility design meets DEQ requirements for such facilities, prior to FMP approval.
53. Prior to FMP approval the Applicant shall do the following: (a) Design a wastewater

reuse program that will utilize wastewater and which may include, but not be limited to, use of effluent to irrigate golf courses, to create wetlands or to irrigate cropland; and (b) Design the transportation and distribution system which will be used to transport and discharge effluent to and on the site of reuse; and (c) If effluent will be reused on property located outside of the boundaries of the resort, the Applicant must submit proof that it has obtained a binding legal commitment to discharge effluent on that site; and (d) State what level of treatment (I through IV) will be achieved by the plant designed, demonstrate how DEQ requirements (OAR regulations) on reuse will be met, and provide assurances acceptable to the Planning Director that measures to comply with the regulations will be met once effluent is put to beneficial use.

54. The Planning Director shall determine at what point of development a mechanical treatment facility will become feasible and require its construction at or prior to that time in the conditions of approval of the FMP. The Applicant shall provide a performance bond or other financial assurances satisfactory to Deschutes County Legal Counsel, assuring completion of the mechanical treatment facility and related facilities.
55. The Applicant shall identify, on the FMP, all areas in the resort that are not suited for development with septic systems. No buildings requiring sewer service may be sited, or residential or commercial lots platted, on these properties until such time as the mechanical treatment facility is constructed and operational.
56. The Applicant shall obtain septic system feasibility approval from the Deschutes County Environmental Health Department for each proposed lot in each phase of development platted prior to approval and filing of the plat, until such time as the central facility is constructed and operational and when service by that facility to the platted area is assured.
57. The Applicant has stated that the septic tanks on each lot will be backed up with a central collection system. This system has not been designed. The Applicant shall design the back up effluent collection system and designate an area for central and/or back up effluent disposal prior to FMP approval. The Applicant shall construct the back up, central drainfield prior to platting any portion of Phase II and shall install all collection lines for the system in each phase, prior to the issuance of building permits in that phase.
58. The Applicant shall make an application to DEQ for a WPCF permit for the proposed septic system and backup drainfield, and comply with applicable Oregon Administrative Rules regarding beneficial use of waste water, as determined by DEQ. The Applicant shall have received approval of a WPCF permit consistent with this provision prior to applying for approval of the Final Master Plan. The Applicant shall also obtain approval of the mechanical system, prior to operation.

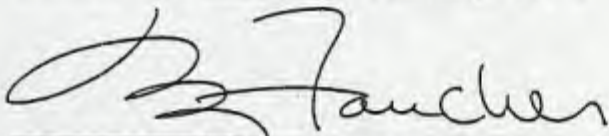
59. Approval of each phase of development that will utilize subsurface drainage systems may be denied by Deschutes County if DEQ has withdrawn approval for the subsurface system or if there is substantial evidence to indicate that the systems are failing or causing significant contamination of groundwater or river water.
60. If, at some time in the future, the Comprehensive Plan is amended to allow the Eagle Crest resort to connect to the Redmond sewer system, the Applicant may apply to the Planning Division for amendment of these conditions of approval to authorize that sewage treatment option and to remove the on-site treatment plant requirements. The Applicant will need to demonstrate that Redmond's sewage treatment plant has adequate capacity to treat the sewage in compliance with all sewage treatment regulations and that the Applicant has obtained a binding, long-term commitment from the City of Redmond to accept and treat the Eagle Crest sewage and to make a beneficial use of the effluent.
61. The Applicant will be required to either: 1) dedicate land for park purposes; or 2) pay a \$350 per-lot park acquisition and development fee in lieu of actual dedication as required by Section 17.44.010 of Title 17 (the County Subdivision Ordinance). This fee will be charged at the time of final plat review for the platting of all lots within the resort unless a dedication of park land, that complies with the requirements of Section 17.44 occurs.
62. The Applicant shall develop a landscaping plan for the northern boundary of Phase II that adjoins Cline Falls Oasis and any other residential lots to provide buffering between the resort and these residential property. The Applicant shall submit and receive approval of a landscaping plan that meets the requirements of DCZO 18.113.070(N) for that area, prior to FMP approval.
63. The submitted Conceptual Master Plan indicates a commercial core area in the center of the proposed Phase II development, a resort sales office in Phase I and a future commercial area in Phase I. These are the only areas in the Conceptual Master Plan that may be developed for new commercial uses.
64. All commercial areas be screened from the highway. This includes the commercial area proposed in Phase I. The proposed sales office for Eagle Crest shall be turned to face the resort, rather than Cline Falls Highway and shall be screened from view from the Highway. No parking shall be placed between the sales office and Cline Falls Highway. No sales office signage, signs for commercial activities within the resort, or ground mounted signs advertising the sales office may be visible from Cline Falls Highway.
65. Area 11 of Phase II shall not include any commercial facilities.

66. The Applicant shall demonstrate, prior to FMP approval, that a plan exists to ensure a transfer of common areas, facilities such as sewer, water, streets and responsibility for police and fire protection to owners' associations or similar groups, if contemplated. If such transfer is not contemplated, the owner or responsible party shall be clearly designated. Adequate open space, facility maintenance and police and fire protection shall be ensured in perpetuity in a manner acceptable to the County.
67. There are several "temporary" structures currently in use at Eagle Crest. These include the temporary modular sales offices located at the entrance to Phase I, a temporary modular day care center near the Inn at Eagle Crest, and a temporary golf pro shop for the Eagle Ridge Golf Course within the proposed Eagle Crest Phase II area. These are the only temporary structures allowed in the entire Eagle Crest Resort. As required by this section, any new temporary structures would be allowed for no more than 18 months from the date that CMP approval is final, and would be subject to all use and site plan standards. The temporary sales office must be removed no later than when the new sales office is occupied. The temporary golf course pro shop shall be removed no later than when the first plat in Phase II is approved.
68. Applicant shall provide proof that its submitted Open Space Management Plan applies to all Eagle Crest Phase I and Phase II property owners, by inclusion in CC&Rs that bind all of the property included within the resort. The Open Space Management Plan must specifically protect the 50% open space required by the County's destination resort ordinance from development, unless such development is specifically allowed by the destination resort ordinance, as written at the time of submission of the CMP application.
69. The Applicant shall design and install fences or other buffers between the proposed golf course and any and all roadways, bikeways and pedestrian paths, so that golf balls do not enter the ways, prior to FMP approval or demonstrate that golf balls will not stray into such transportation areas. Additionally, the Applicant shall continue to comply with this condition once FMP approval is granted. If the Planning Director determines that there is substantial evidence to indicate that golf balls are straying from the golf course and entering roadways or pedestrian or bicycle paths, the Applicant shall design and implement measures to keep golf balls from entering such areas.
70. This approval is subject to continued compliance with all provisions of the County's destination resort ordinance, as outlined in this decision. The Applicant and its successors or assigns shall assure that all conditions of approval that is mentioned in any part of this decision, whether or not it is listed in this conditions of approval section. The applicant shall be required to demonstrate that the conditions of CMP and FMP approval have been, are being and will be met prior to approval of future land divisions and phases within the resort.

71. The applicant shall submit a Title Report for the subject property to show evidence of clear, marketable title and that no encumbrances exist on the areas being dedicated as open space or being developed with resort recreational facilities or sewer or water utilities. If any encumbrances exist, they shall be removed prior to acceptance by the County, unless otherwise approved by the Board of County Commissioners.
72. The applicant shall meet all conditions of Final Master Plan approval contained in DCZO 18.113.090 through 18.113.110 and in this decision.
73. Conditions of approval that were discussed in the text and which the Hearings Officer said would or should be imposed, are hereby made conditions of approval of this decision. This provision is included to make it clear that a failure to list such conditions in this section is not intended to absolve the Applicant of responsibility to comply with such conditions.
74. This Conditional Master Plan approval shall be void if the Final Master Plan is not submitted for final master plan review within two (2) years from the date this decision is final.

**THIS DECISION BECOMES FINAL 10 DAYS FROM THE DATE MAILED,
UNLESS APPEALED.**

DATED this 13th day of January, 1994.



LIZ FANCHER, Hearings Officer

ARLU DeCo

P. O. Box 1508 • Sisters, Oregon 97759

FEB 14 1994

WATER RESOURCES DEP
SALEM, OREGON

(503) 549-1307/548-6544

To: Oregon Water Resources Dept, Water Rights Section
3850 Portland Rd. NE Salem 97310 Feb 11, 94

Attn: A. Reed Marbut, Administrator

Subject: Protest of Application File No. G-12905

From: William Boyer, Chm. Alliance for Responsible Land
Use in Deschutes Co.

There is a substantial area of uncertainty as to the effects on quantity and quality of underground water which could result from authorization of the Eagle Ridge Development permit.

Eagle Ridge has used in-house "evidence" to claim that there is sufficient water and the county DEQ has authorized a massive septic system for getting rid of the waste from what will be the equivalent of a small city. Eagle Ridge claims that there is sufficient water for their use.

Eagle Ridge is asking for a high risk authorization by the state which could have negative impact on a large central basin. Nearby decline of wells has occurred since the first Eagle Crest destination resort was established, though the 25ft drop has not been reached. If authorization for Eagle Ridge is permitted the 25ft drop may well be realized, especially as new drought levels are experienced. Then what would be done when most of the damage would be irreversible and born by those already with established farms and homes?

Contamination of the pristine underground water would be a catastrophe that could even effect the Opal Springs water of Madras.

The use of well water to irrigate a golf course rather than use grey water that would in effect achieve some recycling is a way of increasing the demand on underground water. By using septic tanks rather than having sewage treatment transmitting reasonable safe grey water for the golf course would raise the probability of contamination of underground water. The plans proposed by Eagle Ridge trade off public safety for cost minimization. This is a violation of ORS 183.310 which makes "public health and safety" a goal higher than economic profit.

Chairman
Bill Boyer

Vice Chairwoman
Marion Millard

Board Members
Gladys I. Biglor
Bob Brockway
Alice Koehler
Maret Pajutee
Dorothy Schoonmaker
Sandi Sands
Jen Twining, Exec. Dir.

The overriding consideration is that plans for a basin study by the USGS are now underway sponsored by local, state, and federal funds. This will be a definitive study that will provide a basis to determine quantity carrying capacity and contamination vulnerability.

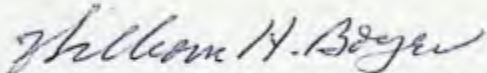
The Alliance for Responsible Land Use in Deschutes County

P. 2 OWRD

No state water rights permit for the proposed expansion should be provided until this study is completed.

Authorization of the permit would establish rights for others prior to the USGS study, and cumulative effects of escalated demand for underground water would mean that we were "flying blind" in central Oregon, possibly toward disaster.

The purpose of a public state agency is to protect the public interest and it is clear that the information needed to protect the public interest is not now available but will come from the independent and objective science-based USGS study.



William H. Boyer, Chairman

Chairman
Bill Boyer

Vice Chairwoman
Marion Millard

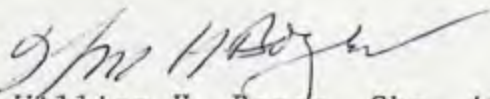
Board Members
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Jen Twining, Exec. Dir.

The Alliance for Responsible Land Use in Deschutes County

CERTIFICATE OF SERVICE:

I certify that on the 11th day of Feb 1994 a copy of the ARLUDeCo protest of application G-12905 was served on each of the following by first class mail:

1. Eagle Ridge Development
2. Water Watch
3. Marian Millard
4. Friends of Cline Butte
5. Representative Beverly Clarno
6. W. and H. Pacific
7. Canyon Ranch Residences



William H. Boyer, Chm. Alliance for Responsible Land Use.

Chairman
Bill Boyer

Vice Chairwoman
Marion Millard

Board Members
Gladys I. Biglor
Bob Brockway
Alice Koehler
Maret Pajutee
Dorothy Schoonmaker
Sandi Sands
Jen Twining, Exec. Dir.

The Alliance for Responsible Land Use in Deschutes County

FAX TRANSMISSION

OBJECTIONS

6-29-93 TIME:

PAGES:

2

TO: Water Resources

Marion Millard PHONE:

LOCATION:

FROM: MARATHON BUSINESS MACHINES, INC.

FAX#:

(503) 548-5967

MESSAGE:

PHONE#: (503) 548-5248

FAX 503-378-8130

6-28-93

P.1

Water Resources Dept
3859 Portland Road N.E.
Salem, Or. 97310

attn: Mr. Thomas C. Shook
Water Rights Specialist
Technical Review 6-29-1993

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 Kline 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

301 N/A/ DETAILS

FAX TRANSMISSION

DATE: 6-29-93 TIME: _____

PAGES:

2

TO: Water Resources Dept

FROM: 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
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TAX LOT 200 BEN JOHANEK

201 JACK BAKER

202 PAT MCCREARY

300 BEING SOLD TO NEW OWNER

301 N/A DETRAC

202 TAT McCREARY

300 BEING SOLD TO NEW OWNER

301 DAN DETERS

302 HARRY BRIDGES

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

P2

Eagle Creek is up to now.

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

Section 26 as described " $NE\frac{1}{4}$ of 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 Kline Falls Road or is BLM.

Sincerely,

Phone
923-0749

Marion Milford
3201 S.W. 73rd St
Redmond, Or. 97756

WaterWatch

O F O R E G O N

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.

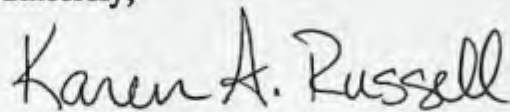
7. Proposed condition #14 does not protect the public interest because it allows the transfer of amounts above actual permit requirements.

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 black ink that reads "Karen A. Russell". The signature is written in a cursive style with a large, stylized "K" and "R".

Karen A. Russell
Legal Affairs Coordinator

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 boardering 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 Allicance 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 concerng ----- 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 Coal 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

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

ATTN: WATER RIGHTS SECTION

From: Jen Twining, Executive Director 
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 Koehler
Maret Pajutec
Dorothy Schoonmaker
Sandi 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

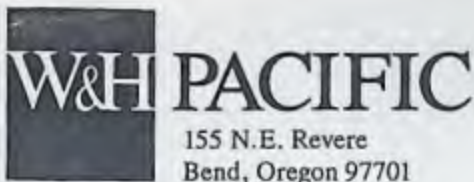
CONCLUSION: ARLU-DeCo INTERPRETS THE TECHNICAL REPORT TO BE INCOMPLETE AND INCONCLUSIVE. THE REPORT MUST BE REVISITED FOR COMPLETENESS, AND ACCURACY, AND TO MEET THE REQUIREMENTS, AND TO ALLOW THE OBJECTORS AN OPPORTUNITY TO EVALUATE THE REPORT.

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



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MAY 28 1993

WATER RESOURCES DEPT.
SALEM, OREGON

May 25, 1993

Mr. Thomas E. Shook
Oregon Water Resources Department
3850 N.E. Portland Road
Salem, Oregon 97310

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

Dear Tom:

Thank you for your significant assistance with our pending water right appropriation application for the Eagle Ridge Development Corporation. The technical review has been completed and the associated 60 day comment period initiated. My client and I have reviewed the technical report in great detail and are in complete agreement with one very small exception.

The well location, shown on the technical review is different than that proposed on the application map. It appears the location variance may be the result of a simple typing error. If so, I recommend changing the location of well number three from SW 1/4 SW 1/4 to SW 1/4 NW 1/4. *OK*

If the change in the well location was intended by your staff, then my client will abide by the location you have recommended.

Again, any change requested by Eagle Crest is intended to be a very simple correction of a typing error. If you foresee any concerns or issues arising from this minor change, then we will certainly abide by your recommendation.

Thank you again for your assistance.

Very truly yours,
W&H PACIFIC, INC.

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

cc: Bill Lyche

05260101/c052593.ltr





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MAY 28 1993

WATER RESOURCES DEPT.
SALEM, OREGON

May 25, 1993

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

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Very truly yours,
W&H PACIFIC, INC.

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

cc: Bill Lyche

05260101/tas052593.ltr



BALL, JANIK & NOVACK
Attorneys at Law
101 S.W. Main Street, Suite 1100
Portland, Oregon 97204-3274
Telephone (503) 228-2525
Telecopy (503) 295-1058

TELECOPY TRANSMISSION FORM

April 1, 1993

Steve Brown
SEND TO: _____
(Individual)
Oregon Water Resources Department

(Firm or Company)
Richard M. Whitman

FROM: _____
Eagle Crest/Water

CLIENT/MATTER: _____
378-8130 0618.4

TELECOPY NO: _____ CLIENT NO: _____

3

NO. OF PAGES (INCLUDING COVER PAGE): _____ OPERATOR: _____

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COMMENTS:

BALL, JANIK & NOVACK

ATTORNEYS AT LAW
ONE MAIN PLACE
101 S.W. MAIN STREET, SUITE 1100
PORTLAND, OREGON 97204-3274
TELEPHONE (503) 228-2525
TELECOPY (503) 295-1086

10th FLOOR, 1101 PENNSYLVANIA AVE. N.W.
WASHINGTON, D. C. 20004
TELEPHONE (202) 638-3307
TELECOPY (202) 783-8847

RICHARD M. WHITMAN

April 1, 1993

Via Facsimile - 378-8130

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

Re: Land Use Compatibility Requirements for the Pending
Eagle Crest Application

Dear Steve:

As promised, I am writing to outline my understanding of the Department's rules relating to land use compatibility statements and the processing of applications. As you know, these rules are contained in Divisions 5 and 11, and in the August, 1990 Land Use Procedures Guide.

The starting place is OAR 690-05-035(4). This regulation requires applicants to submit land use information as specified on the forms contained in the Department's Land Use Planning Procedures Guide, and that if local land use approvals are pending, that the Department will condition any permit to preclude use of water until the necessary local land use approvals are obtained. Similarly, OAR 690-11-020(1)(g) also require that the land use information specified in the Department's Land Use Planning Procedures Guide be submitted (OAR 690-11-025(1) and OAR 690-11-030(7) also requires that this information be submitted before completion of a technical review). Finally, OAR 690-11-160(6), which sets forth the procedures for technical review of applications, simply refers back to the Department's Land Use Guide and OAR 690-05-035 summarized earlier.

Eagle Crest has obtained a land use compatibility form from the county indicating that discretionary land use approvals are required and that satisfactory progress is being made in obtaining these approvals. The Department's regulations do not require discretionary local land use approvals to be obtained before issuance of a permit for the use of surface or ground water. Nor is there anything in the rules requiring that such approvals be obtained prior to technical review of applications. In fact, the Department's Land Use Planning and Procedures Guide, referenced in the Division 5 and Division 11 rules, clearly provides that in situations such as this one where land uses are allowable, but discretionary approvals are required, that the

BALL, JANIK & NOVACK

Mr. Steve Brown
April 1, 1993
Page 2

Department will approve permits with conditions requiring the land use approvals prior to the use of water. The specific section I'm referring to is as follows:

"D. Land Use Compatibility - the Department will:

...

e. approve a permit with conditions prohibiting water use, and the placement or construction of facilities to support such use, until the applicant has received all applicable local land use approvals and local appeals periods have expired if:

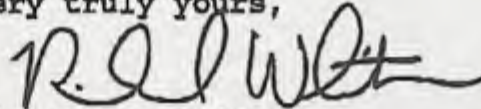
...

2. Land uses are allowable, with discretionary land use and approval, under acknowledged comprehensive plans and the applicant is pursuing all applicable land use approvals to the satisfaction of the planning director." Land Use Planning Procedures Guide at 67-68.

In the case of this application, the applicant has obtained a land use compatibility form from Deschutes County indicating that the applicant is pursuing all applicable land use approvals to the satisfaction of the planning director. In short, I believe the Department, under the clear terms of its rules and Land Use Procedures Guide, can proceed with technical review of the application and issuance of the permit notwithstanding the fact that discretionary land use approvals have not yet been obtained, so long as the permit includes a condition requiring that the land use approval be obtained before water is used under the permit.

I hope this walk through the rules is helpful to you in evaluating how to proceed with the Eagle Crest application. Once you have had an opportunity to review this letter, please call me to confirm that the Department is proceeding with technical review of the Eagle Crest application.

Very truly yours,



Richard M. Whitman

RMW/mfc

cc: Mr. Tom Walker
Mr. Bill Lyche
Ms. Nancy Craven

dtw\rmw\esgle\water\lcr\Brown.ltr

6-12905

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OCT 28 1993

James L. Goodell
3240 SW 81st Street
Redmond, Oregon 97756

WATER RESOURCES DEPT
SALEM, OREGON

October 25, 1993

To: Dale VanValkenberg
Community Development Department-Planning
1130 NW Harrison
Bend, Oregon 97701

RE: Expansion Of Eagle Crest-Destination Resort

Dear Mr. VanValkenberg

I am writing this letter to you in hopes of getting something done.

I fail to see why Eagle Crest feels they must have this expansion. I have bought a second home that happens to be in this area. I picked this area for its natural beauty and for the fact that the area wasn't hit by commercialism.

I also don't understand how Eagle Crest thinks that they should be given the BLM land tax free, when everyone has to pay tax on their property. If they gain this land it would be considered their property, therefore, so it should be taxed.

I believe also that if they want to have an overpass put on HWY 126, they should have to pay for it not the tax payers. Why should an innocent person have to pay for what Eagle Crest deems as a needed item.

I have also seen a water test done on the Deschutes River at Eagle Crest. This test was done during the off season time and the state park across the river was closed. In the test I have noticed that the fecal coliform count went up by four (4) times. There is not a significant number of animals between Eagle Crest and the river to make the count go up that much. Wouldn't you think the fecal count is coming from Eagle Crest (i.e., possible septic tank leak or a bad piping system). If so what can be done to stop it? A copy of the water test is enclosed. Also, when considering this remember Senate Bill 1010 which was passed.

With this I also have concerns about their ability to use surface water. I do know for an almost surety that the piping system should not be allowed due to the scenic river act. Then also with the fecal coliform contamination, wouldn't that be a great way to spread an epidemic of some sorts to all unsuspecting patrons of Eagle Crest.

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WATER RESOURCES DEPT.
SALEM, OREGON

-2-

There is also a need to consider the fact that both Phase I and Phase II are uphill from residential areas and the river itself. With the heavy use of fertilizers and pesticides for the existing golf courses and land areas now (then add the concentration of what it will be like if they get the expansion), what will happen to the runoff of these products. Usually, they run underground during rains going eventually through the land tables which in turn will effect existing wells. Then there is also the fact that it could just run down the hill into the river. The contamination is also harmful to all the animals that exist in the area i.e., deer and rodents that live off of the plant life and the Golden Eagles that would then in turn eat the contaminated rodents). With this in mind you must also remember that House Bill 2538 has been signed into law by the Governor.

I was also reading the staff report on file #'s CU-93-94 and V-93-28. In this report on page 6, item 4, paragraph 1, I see where it says that there are no wetlands or riparian areas. If this is indeed true then why on page 9, section F, item 5 does it say they should consider reptiles, amphibians and other species which would utilize the pond areas further. To me if that doesn't say or classify this as a wetland I don't know what does.

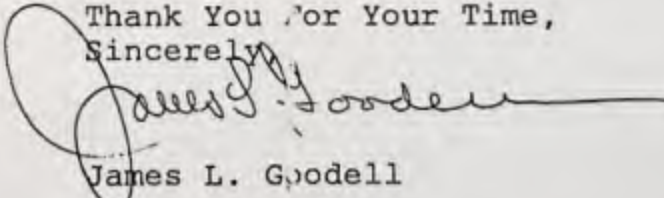
In regarding the Golden Eagles it also says more assessment should be utilized for the surrounding habitat for foraging and nesting along the Deschutes River corridor. With this statement I would have to agree. The Golden Eagles have been there longer than any of us have been and they should be there long after we are gone.

Into their expansion proposal where they will have a total of 1,254.34 acres, this to me doesn't sound like a resort anymore but a commune. The only buildings they are short of on their list of to do's are a school and a police/emergency/fire building. They are making their very own little town.

If for some unknown reason they do the unspeakable and get this expansion I also believe that they should have to put up a \$100 million bond for they have gone bankrupt before.

I also believe that if the opposing peoples are not allowed to use their arguments from 1992 that Eagle Crest should be able to use anything that was for them or in favor of them that was dictated in the year 1992 or earlier.

Thank You For Your Time,
Sincerely,



James L. Goodell

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OCT 28 1993

**WATER RESOURCES DEPT.
SALEM, OREGON**

-3-

CC: Sandy Sands
Beth Stout, National Wildlife Federation
Martha Pagel, Director Water Resources Department
Laura Steckel, Chair Water Commission
Anne Squier, Senior Policy Advisor Natural Resources
Louie Pitt, Planning-Confederated Tribe of Warm Springs

Tulelake Water Lab

905 Main, Suite 502
Klamath Falls, OR 97601
(503) 882-6286

California and Oregon Approved
Director: Maureen Ehlers

October 20, 1992

George Foster
Post Office Box 905
Redmond, Oregon 97756

The river water samples submitted on 10/15/92
were analyzed for Total Coliform Bacteria and Nitrates.
The results are as follows.

Sample Source: Deschutes River at Eagle Crest

Results:

892-1509: #1-Total Coliform = 1600 MPN/100 ml
Fecal Coliform = 7 MPN/100 ml
Nitrate = 0.8 mg/l

892-1510: #2-Total Coliform = 1600 MPN/100 ml
Fecal Coliform = 26 MPN/100 ml
Nitrate = 0.6 mg/l

Analyzed by:

Maureen Ehlers

Maureen Ehlers
Lab Director

EXHIBITS SUBMITTED FOR THE RECORD WITH OBJECTIONS TO STAFF REPORT
AND APPLICANT BURDEN OF PROOF

FILE: CU-93-94 - Submitted 11/3/93

TO: Dale VanValkenberg, Planning Dept.

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

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WATER RESOURCES DEPT.
SALEM, OREGON

EXHIBITS;

- A - Letter from Environmental Health Dept.
- B - National Geographic Article on Water
- C - Pages from Des. Co. Comprehensive Plan
- D - Groundwater Study Article
- F - List of Dairies
- G - Bulletin Article - 10/17/93
- H - Correspondence with Bob Main, Watermaster - 6 pages
- I - Swalee River Water Transfer Application
- J - Health Department Report
- K - Memo dated 4/30/91
- L - Letter to C. Calica, Confederated Tribes of Warm Springs
- M - Opposition Testimony, Oct. 1992 - Ray Curry Testimony
- N - Letter From A. Patton, Dept. of Envir. Quality, 1/6/92
- O - Letter from Env. Health Division, 9/25/91
- P - Letter from Eagle Crest Agent, Charles C. Brown
- Q - Letter from Martha Pagel, Dir. of Water Res. Dept.
- R - 1991 New Wells and Irrigation Permits from
- R-1 - National Geographic Article on Water
- S - Letter from Bill Blosser to L. Stickel, Chair Water Comm.
- T - Eagle Crest as Plaintiff
- T-1, T-2, T-3 - Correspondence pertaining to Canyon River
Territories Building and Use Restrictions

Sandra Sands
Friends of Cline Butte
Alliance for Responsible Land Use in Deschutes Co.
3450 SW 81st Street
Redmond, Oregon 97756

QUESTIONS AND OBJECTIONS TO STAFF REPORT AND BURDEN OF PROOF
For the Record - CU-93-94, V-93-28 - 11/3/93

To date, the Dept. of Environmental Quality has not commented on this application. The Hearings Officer should NOT be required to make state environmental decisions, nor should this portion of applicant's Burden of Proof remain unsatisfied until Final Master Plan approval. Questions and concerns regarding Eagle Crest's plans for sewage disposal are of upper most concern to the citizens of this county. Should Eagle Crest elect to transport their sewage to the Redmond Treatment facility, taxpayers will be asked to fund a new facility. The Redmond Sewage Treatment Plant was built in 1979 to accommodate a population of 3,500 city residents. The treatment facility is presently overburdened.

Attached is a letter from Dennis Illingsworth, Supervising Sanitarian for the Environmental Health Division, dated September 25, 1991 - for the record. Please note Mr. Illingsworth's comments pertaining to water use and availability for destination resorts - "surface water being over-allocated and groundwater being addressed site specific with basin studies not completed."

"Beneficial uses DO NOT include commonly accepted disposal methods, for example, drainfields or sewage lagoons, UNLESS THE LAGOON IS USED FOR TREATMENT BEFORE THE BENEFICIAL USE."

"An erosion control plan shall include storm melt water erosion control to be implemented during ALL phases of construction, and permanent facilities for the CONTINUING TREATMENT OF THESE WATERS. IT IS RECOMMENDED THAT ALL RUNOFF WATER BE UTILIZED FOR BENEFICIAL USE." *Please note article from the National Geographic pertaining to runoff contamination.

Attached are copies of Deschutes County's Comprehensive Plan, pages 138 and 139: 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'S GROWTH AND TO DETERMINE ITS ECONOMIC BASE. Please refer to my submitted testimony outlining this applications conflicts with Oregon's Statewide Planning Goals. Approval of this application prior to the completion of the comprehensive groundwater study of the Deschutes Basin leaves the County in direct conflict with its

stated purpose in its own Comprehensive Plan, and therefore in a position of "accountability" for consequences.

The Comprehensive Plan states: Given the expected continued growth of the area and the existence of quality and quantity problems already, the results of these groundwater studies will prove useful in updating this plan and safely accommodating the new growth while protecting existing industries and residents.

The County's stated goals: (1)To MAINTAIN existing water supplies at PRESENT QUALITY AND QUANTITY; (2)To IMPROVE the efficiency with which water is supplied to meet the GROWING NEEDS OF DESCHUTES COUNTY RESIDENTS.

TO OBTAIN BETTER INFORMATION THAN THAT PRESENTLY AVAILABLE - SO AS TO ASSURE THE SAFE USE OF THE AREA'S WATER RESOURCES - THE FOLLOWING POLICIES SHALL BE ADOPTED:

-OBTAIN FUNDING TO CONDUCT A COMPLETE COUNTY-WIDE HYDROLOGY STUDY. PARTICULAR EMPHASIS SHALL BE PLACED ON STUDY OF URBAN AREAS, IRRIGATION WATER SEEPAGE INTO LOCAL WATER TABLES, STREAM FLOW AND LIMITS TO WATER AVAILABILITY.

- THE COUNTY, IN CONJUNCTION WITH APPROPRIATE STATE AND FEDERAL AGENCIES, SHALL CONDUCT A STUDY ON THE LOCATION AND CHARACTERISTICS OF LOCAL AQUIFERS AND STREAMS.

Air and Noise Pollutions levels must be addressed. Air quality of increased carbon monoxide levels at the area of Hwy. 126 and Cline Falls Road, and noise levels must be carefully evaluated - as Eagle Crest proposes to increase density by 3,000+ with this application, as well as increased traffic generated by special events, conferences and commercial and recreational daily traffic.

Page 21 of the Staff Report reads: Destination resorts shall not exceed a density of 1 1/2 dwelling units per acre - including residential dwelling units - and excluding visitor oriented overnight lodging. Eagle Crest has acquired 60+ acres in the rural residential community of Canyon River Territory. Should Eagle Crest be allowed to build out to 90 dwellings o 60 acres, water, pollution, traffic, etc. issues must be addressed before the public. Eagle Crest's density in Canyon River Territory would exceed the Canyon's controlled growth of 60 families per total acerage in the Canyon. Eagle Crest would have a disproportionate number of dwellings in an area zoned primarily Rural Residential 10-acres.

Rural zoning is in place to protect wildlife, rural quality of life and rural character, as well as to control traffic in a rural area, and to protect rural residents from the absence of public services in a rural area.

Further, speculative prices disrupt the commercial agricultural practices of the area by increasing the price of land making it unavailable to farmers. Speculative prices tend to be associated with smaller parcel sizes. It is the presence and effect of speculation, the higher price the farmer must pay, that is of concern in the Goal 3 minimum lot size analysis.

I've included maps and listing of BLM grazing allotments surrounding Cline Butte. Also attached is a list of agricultural operations in the area of Cline Butte. Irrigated lands must be identified and mapped before this application can be approved.

Ord. 18.113.070 reads: WATER SHALL ONLY BE TAKEN FROM THE REGIONAL AQUIFER FOR PROPOSED USES AT A DESTINATION RESORT. Please note the attached Bulletin article regarding the illegal pumping of river water by Eagle Crest and the proposed Swallee Water District transfer. Use of river water by Eagle Crest violates Ord. 18.113.070.

Traffic Impacts: For the record, what are the exact costs to the public in dollars for the proposed overpass/interchange to accommodate traffic generated by the expansion of Eagle Crest? What are the costs to the public, in dollars, if Eagle Crest does not reach 100% buildout?

Does the proposed overpass and expansion conflict with airport regulations of the Aeronautics Board governing Cline Butte Airport? Applicants Burden of Proof must address potential conflicts with the airport.

Further, the applicant's Burden of Proof does not address projections for cumulative impacts along with mitigation measures of other impacted highways, cities and impacted areas by traffic generated by Eagle Crest and for Eagle Crest special events, which advertise to the public.

WATER QUALITY: The Oregon Health Dept. recommends quarterly testing of drinking water for bacteria and annually for nitrates. In view of the recent Bulletin Special Feature confessing that the County has been delinquent in conducting mandatory restaurant inspections these past few years because of lack of manpower, is drinking water being tested at Eagle Crest, as mandated by state law?

As noted in testimony presented 10/21/93 and attached Activity Report from the Oregon Health Dept., dated 9/20/92 - there was no cross-connection control in place between potable and non-potable water supplies at Eagle Crest Phase I. Back flow was never tested and there haven't been any inspections by the State Health Dept. at Eagle Crest "for some time".

WILDLIFE ASSESSMENT: Applicant's Burden of Proof is incomplete.

Please refer to Gladys Biglor's testimony, dated 10/22/92 and submitted for the record 10/21/93. Should this application be approved in spite of the fact that the wildlife survey was conducted at the wrong time of year leaving findings incomplete, both Eagle Crest and the County could be subjected to Federal violation of the Endangered Species Act pertaining to the existence of Astragalus peckii on Cline Butte. Ms. Biglor's testimony is substantiated by the Endangered Plant portion of the attached BLM Bend Municipal Golf Course Study determining areas west of the Deschutes River (Cline Butte) as historical growing areas of the Astragalus peckii. Please also refer to the attached memo to Friends of Cline Butte, dated 4/30/91 and my letter to Mr. Charles Calica, of the Confederated Tribes of Warm Springs, dated 3/29/91.

Please note Staff Report, page 3 - Canyon River Territory is primarily zoned RR-10, not exclusively MUA-10.

What is the exact number of units and permanent residential dwellings Eagle Crest is applying for in Phase I, in Phase II and in Canyon River Territory? Can Eagle Crest build up to 1 1/2 dwellings per acre in Canyon River Territory? There are discrepancies in total acreages and in numbers of dwelling units in the applicant's Burden of Proof.

Staff Report - page 8 - refers to bicycle and pedestrian traffic, but neglects to address golf cart traffic - which has become a hazard on Cline Falls Road. The Public Works Dept. has received several complaints on potential accidents on the highway caused by golf carts darting across from Phase I to Phase II. The Public Works Dept. has told us that they will require Eagle Crest to install underground tunnels for the passage of golf carts. I don't see where this is addressed in the Burden of Proof or the Staff Report.

Staff Report - page 9 - Until BLM responds, the Burden of Proof is incomplete as pertains to a current assessment. More assessment related to golden eagles which utilize the surrounding habitat for foraging and nesting along the Deschutes River Corridor is required. This must be a current BLM assessment, included as part of applicant's Burden of Proof.

Staff Report - page 10 - The following concerns have not been addressed, leaving the applicant's Burden of Proof incomplete: Eagle Road should be brought into the design of any future interchange on 126 and Cline Falls Road. The proposed second access to the Cline Falls Highway from Eagle Crest II comes in at a point where the sight distance is not good. This must be resolved. A public hearing must be held regarding the proposed overpass/interchange. Until issues regarding the overpass have been addressed and resolved before the public, this application MUST BE DENIED. EAGLE CREST'S BURDEN OF PROOF IS

INCOMPLETE UNTIL A PUBLIC HEARING HAS BEEN HELD.

Staff Report: Page 11 - Comments must be received from the DEQ and Des. Co. Environmental Health, Redmond Fire District, and the Dept. of Forestry, and BLM - until these issues have been addressed and resolved "before the public" - with opportunity for the public to respond - a decision CANNOT be made on this application.

Staff Report - page 13: Phase I expansion and Canyon River Territory inclusion must be specific - details to be addressed before the public for comment. THIS APPLICATION IS INCOMPLETE. THE PURPOSE OF THIS APPLICATION IS FOR THE APPLICANT TO DEMONSTRATE THAT ALL REQUIREMENTS OF THE DR ZONE ARE CURRENTLY MET, OR WILL BE MET THROUGH THE IMPOSITION OF CONDITIONS OF APPROVAL.

A NEW HEARING BEFORE THE PUBLIC MUST BE HELD TO ADDRESS EXPANSION SPECIFICS IN PHASE I AND CANYON RIVER TERRITORY.

Staff Report - page 16 - Applicant's Burden of Proof is incomplete until all items of concern are resolved. (Items outlined on pages 16 - 22 must be addressed and resolved regarding number of units, purpose and total density). The major portion of the proposed Eagle Crest expansion is REAL ESTATE.....NOT RECREATIONAL NEEDS, IN ACCORDANCE WITH GOAL 8 CRITERIA!

Staff Report - page 21: Staff would note that if Eagle Crest were to build up to the maximum allowed density of 1,881 residential units, 941 visitor-oriented overnight lodging facilities would have to be provided to meet required ratios. A TOTAL OF 2,822 UNITS - AT TWO PEOPLE (MINIMUM) PER UNIT - WOULD EQUAL A TOTAL OVERALL DENSITY OF 5,644 PEOPLE.

WATER CONSUMPTION, SEPTIC NEEDS, TRAFFIC IMPACTS, ALL CUMULATIVE IMPACTS TO ADJACENT AREAS, AND TO WILDLIFE AND TO THE ENVIRONMENT MUST BE ADDRESSED AS PERTAINS TO MAXIMUM ALLOWABLE DENSITY AT EAGLE CREST - IN A PUBLIC HEARING.

Staff Report - Page 23: Exterior Setbacks - 350' setbacks for commercial development should be required in Canyon River Territory subdivision as in accordance with IRS standards - "HOME RENTALS ARE DEFINED AS COMMERCIAL USE AND GENERATE TRANSIENT TRAFFIC AND USE."

Staff Report - Pages 24 and 25: IMPACTS TO ADJACENT SUB-DIVISIONS MUST BE MINIMIZED. THESE ISSUES MUST BE ADDRESSED BEFORE THE PUBLIC AND BEFORE AFFECTED NEIGHBORING PROPERTIES IN A PUBLIC HEARING FOR PUBLIC COMMENT, NOT AT FINAL MASTER PLAN APPROVAL.

Staff Report - Page 30: Wildlife mitigation measure must be

subject to public hearing presentation for comment by the public. Wildlife mitigation plans must be firmly in place prior to acceptance and approval of this application.

Staff Report - Page 31: F. The development will not force a significant change in accepted farm or forest practices or significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Please refer to my testimony submitted herewith regarding this application and subsequent conflicts with Goals 3 and 5. Cline Butte is surrounded by BLM grazing allotments, protected under Goal 3. I have also submitted a listing of dairies and other agricultural uses in the area. The Applicant's Burden of Proof is not accurate when it states that there are no surrounding lands which are devoted to farm use. Speculative purchasing of EFU zoned lands and subsequent impacts to agriculture have also been identified in my testimony. Applicant's Burden of Proof is incomplete.

Staff Report - Pages 32 and 33:K Any proposed interchange design and/or realignment of Cline Falls Highway and the proposed overpass must be brought before the public for comments in a designated Public Hearing, as well as any proposed amendments to the Comprehensive Plan - (as required by the County's ordinances and by State law). Realignment of Cline Falls Highway and the proposed overpass/interchange were requested by Eagle Crest solely to facilitate traffic that will be generated by the expansion on Eagle Crest - plans for changes to the highway were not required by the State Highway Dept. as part of their proposals for Redmond - the changes are solely to accommodate Eagle Crest - at their request.

Staff Report - Page 35: Natural Hazards and Drought must be thoroughly addressed as an integral portion of the Applicant's Burden of Proof and in compliance with the County's goals as outlined in the Comprehensive Plan and in concurrence with Goal 5 inventoried and protected groundwater criteria.

Development of 1 1/2 units per acre on 40+ acres in Canyon River Territories subdivision adds a disproportionate number of new dwellings and people into this rural residential community - greatly impacting potential for fire in this sagebrush and juniper area, as well as proposed development on Cline Butte, in the middle of dry sagebrush and juniper - with fire response time by the Redmond Fire Dept. a question of serious concern regarding the landscape of the area and abilities to quickly contain any type of fire, particularly wild fire.

APPROVAL OF THIS APPLICATION WITHOUT DEFINITE ACCEPTED PLANS FOR AN ON-SITE - ACTIVE FIRE DEPARTMENT AT EAGLE CREST - PUTS EVERYONE IN THE SURROUNDING AREA IN JEOPARDY BY EAGLE CREST'S

PROPOSED EXPANSION IN A RURAL AREA. WHO IS LIABLE FOR THE CONSEQUENCES? WATER AVAILABILITY TO FIGHT FIRES IN SURROUNDING AREAS MUST ALSO BE ADDRESSED, NOT JUST AVAILABILITY OF WATER TO PROTECT EAGLE CREST. Page 36 - HAVE FIRE HYDRANTS AND FIRE PROTECTION CAPABILITIES FOR THE OASIS DRIVE, OR THE CLINE FALLS MOBILE HOME PARK, OR CANYON RIVER TERRITORIES SUBDIVISIONS BEEN IDENTIFIED AND DISCUSSED BEFORE THE PUBLIC FOR COMMENT? UNTIL THESE ISSUES HAVE BEEN RESOLVED, THE APPLICANT'S BURDEN OF PROOF IS INCOMPLETE.

Staff Report - pertaining to water issues - I question Eagle Crest's water usage figures. Please note the attached Bulletin article pertaining to golf courses states 1.5 million gallons of water per day are required to irrigate one 18-hole golf course. The Bend Municipal golf course states that a minimum of one-million gallons of water per day are required to irrigate one golf course. I seriously question Eagle Crest's computerized findings that say 700,000 gallons of water a day will be required to irrigate one of Eagle Crest's 18-hole golf courses in a semi-arid climate, in the middle of the sagebrush and juniper of the high desert.

If half of Eagle Crest's groundwater requirements are to be considered "beneficial use" for irrigation of three golf courses, how can groundwater requirements for a population equalling that of a city be considered "beneficial"? I would call the use "extreme" and definitely not in the best interests of all the residents of Deschutes County. Groundwater requirements for the proposed resort will jeopardize the quantity and quality of both the groundwater and the surface water capabilities - servicing all of Deschutes County and beyond - both in depletion resulting from the amounts of water withdrawn for use by Eagle Crest and by recharging capabilities of both water sources to replenish after seven consecutive years of drought, and by the fact that drought is a "recurring hazzard" addressed in the County's Comprehensive Plan.

THE COUNTY MUST PROTECT AND CONSERVE GROUND AND SURFACE WATER AS A GOAL 5 RESOURCE - SHARED BY ALL RESIDENTS OF THIS COUNTY AND BEYOND. WHO IS LIABLE FOR THE CONSEQUENCES IF THIS APPLICATION IS APPROVED PRIOR TO THE COMPLETION OF THE UNDERWAY COMPREHENSIVE GROUND WATER ANALYSIS OF THE DESCHUTES BASIN?

Staff Report - Page 39 - WASTE WATER DISPOSAL IMPACTS ALL OF US. ISSUES MUST BE ADDRESSED AND RESOLVED AND MUST INCLUDE PUBLIC COMMENTS. THIS ISSUE CANNOT BE RESOLVED ONLY AT FINAL MASTER PLAN APPROVAL. THAT WOULD BE A SERIOUS INJUSTICE TO THE PUBLIC.

I challenge Applicants Burden of Proof arguing why it is not feasible to utilize waste water for beneficial use. Please refer to testimony presented at the public hearing last Oct.-

(copy of the transcript is attached). Please also refer to the attached Bend Municipal Golf Course Study by BLM, and letter from Mr. Illingworth of the Environmental Health Division and attached copy of a letter from Amy Patton, dated 1/6/92 from the Department of Environmental Quality.

THESE ISSUES MUST BE RESOLVED BEFORE THE PUBLIC IN A PUBLIC HEARING FOR COMMENT - NOT AT FINAL MASTER PLAN APPROVAL, OR A DECISION FOR THE HEARING'S OFFICER TO MAKE.

Staff Report - page 41 - Eagle Crest must show as Burden of Proof how the resort will mitigate demands it creates on publicly owned land on Cline Butte - 1.7 acres of additional BLM land is being required by Eagle Crest for installation of a 300,000-gal. water storage tank. This land is public land - not intended for exclusive use by a private enterprise.

THE DESTINATION RESORT WILL NOT ALTER THE CHARACTER OF THE SURROUNDING AREA IN A MANNER THAT SUBSTANTIALLY LIMITS, IMPAIRS OR PREVENTS PERMITTED OR CONDITIONAL USES OF SURROUNDING PROPERTIES. These issues have been discussed in previous testimony and in testimony attached. Goal 3 grazing and farming operations will be definitely adversely impacted. Rural Residential controlled growth will be greatly adversely impacted by allowing a density equalling that of a city in the rural lands surrounding Cline Butte - bringing with that density all the problems of city dwelling - crime, transient populations in a rural community, transient traffic, commercial use and traffic, impacts to wildlife, potential for fire hazards, air and noise pollution, artificial lighting in a rural area, speculative purchasing of EFU land impacts to farmers, escalation of property taxes to neighbors (many of which are senior citizens on fixed incomes), impacts resulting from the creation of a 30' - urban structure, overpass/interchange in EFU lands and possible displacement of established residents in the immediate vicinity of the proposed overpass. Adverse impacts to ground water and surface water quality and quantity from the proposed development CANNOT BE MITIGATED.

Commercial Uses - Eagle Crest violates its primary purpose to provide goods or services to the resort when they advertise to invite the public to special events, or when the resort advertises to invite the public to their restaurant, or to their beauty shop or to their spa for massage.

Staff Report - Page 43: Transfer of ownership to Eagle Crest homeowners. Who will ultimately be responsible for future shock consequences - Eagle Crest or homeowners - if groundwater availability becomes a problem, or if groundwater is contaminated, or if the septic system fails, or if the Deschutes River is contaminated from runoff, or if wildfires burn rampantly in the sagebrush and juniper before the Redmond Fire Dept. can

respond. Who pays to have the lawns and golf courses restored when cattle grazing on the surrounding BLM lands break through fences? Who will be responsible for increased crime in a rural residential neighborhood from outside transient traffic generated by the resort?

Staff Report - page 44 - Open space: Eagle Crest's open space management plan includes the natural area from the canyon rim to the center of the Deschutes River. Please note the development, prematurely, of an extensive pumping station at Eagle Crest directly at the river. This pumping station is not only illegal, but Eagle Crest must meet State Scenic Water Way Act criteria, as well as receive approval from the Water Resources Dept. for a transfer of water rights. (see attached photo and article appearing in the Bulletin).

For the record, attached is a letter, dated May 23, 1991 from CHARLIE C. BROWN, Charles C Brown Realty, Eagle Crest's agent. Please note that CHARLIE C. BROWN is also the Manager of the Swalee Water District authorizing a transfer of Swalee River Water rights to Eagle Crest. Is there, perhaps, a conflict of interests....are the public's best interests being served with this transfer, or is it conceivable that Charlie C. Brown cannot be impartial where matters pertaining to Eagle Crest are concerned?

Staff Report - Page 46 (A) - Eagle Crest must conform with Title 18 criteria pertaining to siting of destination resorts. To ask for variances to established setbacks is a direct contradiction to making every effort to mitigate adverse impacts to adjacent lands. There is no "public benefit" - the proposed application is for "private enterprise." Reductions to setbacks adjacent to BLM lands will only encourage grazing by wildlife.

THE APPLICANTS BURDEN OF PROOF IS INCOMPLETE PERTAINING TO ISSUES OF SEWAGE DISPOSAL, GROUND WATER AVAILABILITY, TRANSPORTATION AND TRAFFIC IMPACTS, GOAL 3 AGRICULTURAL CONFLICTS AND WILDLIFE IMPACTS, AND ADVERSE IMPACTS TO SURROUNDING LANDS, AS WELL AS TO MEETING STATE SCENIC WATER WAY ACT CRITERIA.

PLEASE REFER TO THE ATTACHED LETTER TO DESCHUTES COUNTY FROM MARTHA PAGEL, DIRECTOR OF THE OREGON WATER RESOURCES DEPT. STATING, "WITH OREGON GROWING AT TWICE THE NATIONAL RATE, AND 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 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.

ADVERSE IMPACTS TO THE SURROUNDING LANDS AND GROUNDWATER USERS CANNOT BE MITIGATED WHEN DEPLETION OF THE GROUNDWATER SOURCE IS DEPLETED, NOR RIVER WATER OVER APPROPRIATED TO MEET THE WATER NEEDS RESULTING FROM THE EXPANSION OF EAGLE CREST RESORT.

Please also note the attached 10/21/93 FAX from William Blosser to Larna Stickel, Chair of the Water Resources Commission: Pertaining to groundwater over-appropriation, "I believe there have been lawsuits over allegations that certain wells have caused others to dry up or diminish in yield." "Doesn't the government have an obligation to PREVENT PEOPLE FROM HAVING FALSE EXPECTATION ABOUT THE SUITABILITY OF THEIR LAND FOR A CERTAIN USE? Much of the current problem could have been avoided if we had had the knowledge or nerve in the early 70's to say, "this area has a serious ground water problem, it is our duty to stop people from having a false expectation about the availability of water in this area".

Mr. Blosser is referring to the Parrot Mt. area, but this pertains to the Cline Butte area, as well. Mr. Blosser goes on to state, "I suspect the Parrot Mt. situation is not much different from all the other basalt aquifers in the valley, so I would recommend the same thing for all these aquifers. I think there is enough evidence to justify, as a matter of good public policy, the withdrawal of all the basalt aquifers until it can be conclusively demonstrated that there is sufficient water there. I think it is against good public policy to encourage expectations when we know the ground water aquifer is limited. In short, you will prevent a bigger "takings issue" later by acting decisively now."

BURDEN OF PROOF CRITERIA - CANYON RIVER TERRITORY: Eagle Crest stated they had successfully amended Canyon River Territories Building and Use Restrictions to remove all properties acquired by the resort from the established restrictions governing development of the Canyon. We believe Eagle Crest did not acquire a legitimate two-thirds majority, and further, as evidenced by the attached cover sheet filed by Eagle Crest in the Circuit Court of the State of Oregon, Eagle Crest, as Plaintiff, "was at all material times mentioned herein and now is the owner of certain real property in Deschutes County. Both properties of Plaintiffs and Defendants are part of a larger tract of land known as Canyon River Territories. Said land was subjected to Uniform Building and Use Restrictions by instrument dated September 30, 1972 and recorded in Book 189

of Deschutes County Records.

According to this official record, dated Sept. 8, 1993, Eagle Crest acknowledges that all property acquired by the resort is governed by Canyon River Territories Building and Use Restrictions - restricting development to one residential dwelling per 10 and 20 acre designated rural residential parcel, and prohibiting commercial use.

Eagle Crest has either successfully removed all properties acquired by the resort from Canyon River Territories Building and Use Restrictions and, therefore, does not have a legal lawsuit - or Eagle Crest did not acquire a successful two-thirds vote to remove these properties from our Building and Use Restrictions, and as such, cannot develop acquired properties beyond stipulations governed by the Canyon's CC & R's.

Based on the substantial information submitted by opposition and lack of information by State Environmental agencies, and lack of public hearing regarding the proposed overpass, and number of unresolved issues (to be decided upon either by the Hearings Officer or at Final Master Plan Approval) - this application cannot be approved.

To prevent serious consequences resulting from approval of this application prior to the completion of the Deschutes Basin Ground Water Study - We ask the County to protect itself, Eagle Crest homeowners, neighbors, and the environment by denial of this application. The question of "accountability" is uppermost in all our minds.

A handwritten signature in cursive script, appearing to read "Sandra Sands". The signature is written in dark ink and is positioned below the main body of text.

ROUTING - REQUEST

Dalene *consider ASPMT P. Iren* 11/8

er 4, 1993

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WATER RESOURCES DEPT.
SALEM, OREGON

This material needs
to be copied to the
Eagle Crest file

Too late for action 3
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mony presented to the Deschutes
regarding Eagle Crest's application

As you can see, a large amount of information questioning water usage (both groundwater and surface water) - Eagle Crest's groundwater application and the County's ability to meet Goal 5 criteria are of utmost importance to all of us.

We urge denial of both Eagle Crest's groundwater application and request to transfer surface water, as well as the resort's land use application for expansion - at least until the comprehensive groundwater study of the Deschutes Basin is completed. Should any of the three applications be approved prior to completion of the study with so many unanswered questions regarding quantity, quality, availability, impacts, and rechargability capabilities (after 7 years of drought, and rechargability factors resulting from the Bureau of Reclamation's conservation program) - who is liable for the consequences?

Ground and surface water are a shared resource - impacts will be experienced all the way to the Columbia River. Deschutes County's Comprehensive Plan states the necessity for conducting a study of the location and characteristics of local aquifers and streams, in order to (1) maintain existing water supplies at present quality and quantity; and (2) to improve the efficiency with which water is supplied to meet the growing needs of Deschutes County residents.

Eagle Crest is requesting groundwater at the rate of 4,140 gallons per minute, or nearly 6,000,000 gallons per day of pristine groundwater for irrigation and domestic needs of resort city totaling well over 3,000 people - and irrigation of three golf courses, and TWO 150-unit hotels.

Will approval of this application truly be in the best interests of ALL USERS OF THE SAME AQUIFER, FUTURE APPROPRIATIONS, AND ALL AREAS IMPACTED BEYOND DESCHUTES COUNTY? Attached, is a copy of a recent Bulletin article, stating Eagle Crest is also requesting nearly 2,000,000 gallons per day of river water, additionally, to augment groundwater requirements.

ROUTING - REQUEST

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WATER RESOURCES DEPT.
SALEM, OREGON

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November 4, 1993

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WATER RESOURCES DEPT.
SALEM, OREGON

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

Dear Director Pagel:

Enclosed is a copy of recent testimony presented to the Deschutes County Hearing's Officer regarding Eagle Crest's application for expansion.

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Eagle Crest is requesting groundwater at the rate of 4,140 gallons per minute, or nearly 6,000,000 gallons per day of pristine groundwater for irrigation and domestic needs of resort city totaling well over 3,000 people - and irrigation of three golf courses, and TWO 150-unit hotels.

Will approval of this application truly be in the best interests of ALL USERS OF THE SAME AQUIFER, FUTURE APPROPRIATIONS, AND ALL AREAS IMPACTED BEYOND DESCHUTES COUNTY? Attached, is a copy of a recent Bulletin article, stating Eagle Crest is also requesting nearly 2,000,000 gallons per day of river water, additionally, to augment groundwater requirements.

The Deschutes County Comprehensive Plan goes on to state: Given the expected continued growth of the area and the existence of QUALITY AND QUANTITY PROBLEMS ALREADY, THE RESULTS OF THESE GROUNDWATER STUDIES WILL PROVE USEFUL IN UPDATING THIS PLAN AND SAFELY ACCOMMODATING THE NEW GROWTH, WHILE PROTECTING EXISTING INDUSTRIES AND RESIDENTS.

We agree, and urge denial of Eagle Crest's groundwater application, as well as denial of the Swalee River Water Transfer to Eagle Crest. We also question Charlie C. Brown's objectivity as Manager of the Swalee Water District - when Charlie C. Brown, two years ago represented Eagle Crest as their agent. Given the circumstances, Mr. Brown may not be able to take into consideration the best interests of all Swalee Water District users.

ARLU DeCo and Friends of Cline Butte support your concerns on growing reliance for groundwater with Oregon growing at twice the rate of the rest of the nation, while understanding of this extremely complex physical system is not keeping pace with the demands being placed on it.

ADVERSE IMPACTS TO THE SURROUNDING LANDS, AND GROUNDWATER USERS NOT ONLY IN DESCHUTES COUNTY, BUT BEYOND, CANNOT BE MITIGATED WHEN GROUNDWATER AND RIVER WATER HAVE BEEN OVER-APPROPRIATED - TO MEET THE DEMANDS OF WATER USAGE REQUIRED TO SERVE THE EXPANSION OF EAGLE CREST RESORT. WHO IS ACCOUNTABLE FOR THE CONSEQUENCES?

Thank you for your careful consideration.



Sandra Sands
3450 SW 81st Street
Redmond, Oregon 97756

cc: Lorna Stickel, Chair, Oregon Water Resources Comm.
Anne Squier, Sr. Advisor, Natural Resources
Karen Russell, Water Watch
Comm. Tom Throop, Chair, Des. Co. Board of Commissioners
1000 Friends of Oregon
Bob Main, Watermaster

Eagle Crest ordered to stop pumping

By Scott Maben
Bulletin Staff Writer

10/17/93
REDMOND - Eagle Crest, which says it was merely running a test it believed had been authorized, has been ordered to stop pumping irrigation water from the Deschutes River without a state permit.

Obtaining such a permit could take years, even though the resort has purchased the rights to the irrigation water, 43 percent of which will stay in the river under a complicated state law.

That delay could hurt the resort's ability to meet its water needs, expected to run 5.9 million gallons a day once a proposed expansion is complete.

The diversion would provide the resort with 1.9 million gallons a day to augment its groundwater resources. The water would be used to irrigate a golf course now irrigated with groundwater.

Sandra Sands, a neighbor who opposes the resort's expansion plans, blew the whistle on the unauthorized withdrawal.

She saw the resort pumping water from the Deschutes across from Cline Falls State Park and reported it to the state Water Resources Department. The department issued an order Aug. 6 preventing Eagle Crest from using the pump.

Sands later accused the resort of resuming the withdrawal, but the state found no evidence of that.

"We know they pumped some water there," said Bob Main, manager of the agency's south-central region. But he said there was no indication the pumping had ever resumed.

Eagle Crest President Jerry Andres said Friday that the resort drew water only to test the pump station. "We just did what they

Obtaining a permit could take years.

told us to do," he said.

Main said testing will be required if the state permit is approved, but had neither become necessary nor won approval to this point.

Approval of a diversion permit is so time-consuming because the Water Resources Department has a huge backlog of applications. Thousands are pending, officials say.

Sands, who co-owns a horse ranch with her husband in Canyon River Territories, vowed to fight the application when it reaches the point of consideration. She wants all diversion applications turned down until a comprehensive groundwater study is completed for the region.

An official with Swalley Water, the irrigation company that sold the water right to the resort, found that ironic.

Office Manager Charlie Brown said transfer and reduction of the water right has the net effect of increasing the river's daily flow by almost 2 million gallons, rather than decreasing it by something on that order.

What's more, moving the point of withdrawal downstream boosts the river's summer flow by about 20 percent along an 18-mile stretch, he said. That promises to help re-establish aquatic habitat, he said.

"She is complaining about Eagle Crest taking water out of the river," Brown said. "My point is that Eagle Crest is allowing us to put water into the river."



Bulletin/Dan Clark

The pump used by Eagle Crest was idle Thursday

File
CU-93-94
11/3/93
Sands!
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WATER RESOURCES DEPT.
SALEM, OREGON

Alliance for Responsible Land Use
in Deschutes County
Friends of Cline Butte
c/o 3450 SW 81st Street
Redmond, Oregon 97756

October 1, 1993

To: Anne Squier and Ted Kulongowski
Senior Policy Advisor Office of the Attorney General
Natural Resources
160 State Capitol
Salem, Oregon 97310

Re: Expansion of Eagle Crest Destination Resort

Dear Advisor Squier and Attorney General Kulongowski:

I am writing to request your assistance because local channels have been ineffective.

I am reluctant to contact Representative Clarno regarding our concerns, because she has requested OWRD honor Eagle Crest's water application, granting their water request priority status.

Two years ago, we (residents of Canyon River Territory and Oasis Drive - rural communities bordering Eagle Crest) petitioned DEQ, Dept. of Ag., Water Resources, and Deschutes County. We learned of the land swap between BLM, and subsequently Eagle Crest, of 700 acres of Cline Butte BLM land, after the fact. We were concerned about cumulative impacts on our ground and surface water - both quality and quantity - from two more proposed 18-hole golf courses on Cline Butte while the County suffered six consecutive years of drought. We were concerned about potential for contamination of our ground water and river water from extensive use of pesticides and fertilizers in a highly concentrated area (three golf courses upslope from us and the Deschutes River). We were concerned about contamination from septic systems servicing a population equivalent to a small city in a concentrated area. We were concerned about impacts to resident wildlife on Cline Butte (deer, golden eagles, raptors, quail, waterfowl) that would be forced from natural habitat, or would be ingesting rodents dining on pesticides on the golf courses.

We petitioned state agencies and local agencies, requesting supervision and monitoring of ground and surface water. We were told manpower and resources were not available for monitoring - it was up to the resort.

Eagle Crest Phase I density now totals 386 units (townhouses, multi-family units, homes and a 75-unit hotel). Their existing septic system is overloaded and ineffective. Linn Sanitation

Company, nearly weekly, is called to pump backed-up, over-loaded septic, often sewage accumulated above ground. Homeowners at the resort, at their own expense, have been required to install individual pressure systems in order to generate water pressure.

I have photographed a trail of discarded grease from Eagle Crest's restaurant, oozing downslope toward the Deschutes River. Our local Health Dept. "doesn't know anything about it."

Out of growing concern, I hired a consultant to test river water samples. Samples were taken below the resort at the start of Eagle Crest and at the end, below the golf course. The water samples were taken in October of last year, an off-season at the resort and when Cline Falls State Park, directly across the river, was closed. The fecal coliform count nearly quadrupled at the second test site, while nitrate levels decreased, (test results are enclosed). I spent \$200 out of pocket.....where was our local DEQ?

In April of 1992, OWRD was ready to grant approval of Eagle Crest's ground water permit for expansion development on Cline Butte. Water Watch and ARLU DeCo pointed out deficiencies and illegalities in their technical reports and now OWRD has put approval on hold until our objections are addressed, (copies enclosed). Without our intervention, OWRD would have immediately granted approval to Eagle Crest. Isn't the Water Resources Department the guardian of water for all of us?

By copy of my letter to our Watermaster regarding illegal surface water diversion by Eagle Crest, and questioning additional tax-free use of BLM land for the resort's private use, you can see that water issues remain unresolved. Under Oregon's Water Law, OWRD won't intervene until wells drop 25'. Wells in our area dropped ten feet this past summer. A 25' drop is catastrophic!

Canyon River Territory is a rural subdivision, comprised of 10-20 acre parcels, many of us with horses and animals and barns. This area is zoned RR, MUA-10 and EFU. Our roads are unpaved, we do not have irrigation, we depend on wells for our water and septic systems. There are between 60 and 65 small ranches and homes in our subdivision.

Eagle Crest has already acquired 60+ acres in the Canyon and proposes to develop 41 homes on 36 of the acres. Eagle Crest has offered us free cable tv if we will sign off on our established Building & Use Restrictions (CC & R's) - thereby deleting the restrictions governing development of the Canyon. It was close, but Eagle Crest did not acquire the legal 2/3rds vote to delete our CC & R's.

On October 14, 1993, Deschutes County Hearings Officer will decide on Eagle Crest's application for expansion on Cline Butte

and in the Canyon. Between Eagle Crest's Phase I and Phase II - the resort will occupy 1,254.34 acres. Total density at the resort will include 240 townhouses, 218 multi-family units, 656 permanent homes with 1/2 acre irrigation each, two 150-unit hotels, restaurants, office buildings, conference centers, gas station, shopping mall and post office, and three golf courses irrigated by ground water - upslope from the Deschutes River.

Figuring only two people per unit, a population of 3,000 - with automobiles - will be impacting this rural area.

The 3,000 figure doesn't even include golfers, shoppers at the mall, restaurant patrons, conference center participants, recreational tourists or special events participants - all dependent upon ground water and septic systems, travelling rural roads.

A 30' concrete overpass and interchange is proposed to accommodate the resort - out here in rural and EFU lands. The interchange and overpass, as proposed, through conditions built into the contract, could wind up being 100% tax-payer funded.

We have appealed to the County to protect our rural interests and concerns regarding surface and ground water quantity and quality. We have petitioned state agencies for protection and monitoring - to no avail. We have given testimony at LCDC, at the House and the Senate regarding land use and destination resort development in Deschutes County.

We are inundated with golf courses (28 in the dessert), with highscale fairway housing driving up our property taxes. We are suffering the effects of seven consecutive years of drought, our wildlife is being mitigated into extinction by development. We pay tourist prices each time we shop for staples. Farmers cannot expand because developers are buying up all our farm land. Our escalating crime rate and traffic congestion are public knowledge. During the summer months this area is a tinder box of juniper and sage brush.

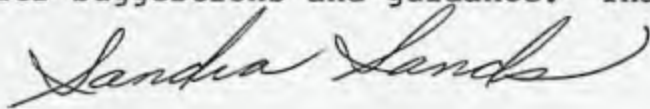
Local newspapers are reluctant to publish our side of the story and concerns - I suspect it's because Geld-Wen now owns most of Deschutes County, as well as Eagle Crest. I've also heard the rumor that a portion of the Oregon State Employees Retirement Fund is vested in Eagle Crest Resort.

We have hired attorneys to help us, but most of us cannot afford outrageous legal fees and the high costs of appeals. We are asking for protection of our ground and surface water resources, and protection of our rural lands. And finally, we are asking for protection of our Goal One Citizens Rights.

I apologize for the length of this letter, but feel our story

must be told. Because I have spoken out in opposition, Eagle Crest is sueing me and my husband for thousands of dollars, on trumped up false allegations, hoping to tie us up in legal fees and court battles in this "slap suit". We very well could lose everything we've worked so hard for over the years. If this is the price I must pay for speaking out against development that could deplete and contaminate our water resources, and destroy, irrevocably, rural lands and rural quality of life - then I will take a second mortgage on my ranch and continue to ask for "accountability".

I'm writing in the hopes that you will hear us, and will perhaps offer suggestions and guidance. Thank you for listening.

A handwritten signature in cursive script that reads "Sandra Sands". The signature is fluid and elegant, with the first and last names clearly distinguishable.

Sandra Sands

cc: Scott Exo, 1000 Friends of Oregon
Lorna Steckel, Oregon Water Resources Commission
Bill Boyer, Chair, ARLU DeCo
Karl Anuta
Mike Adler

10/14/93

To: Deschutes County Hearings Officer - Liz Fancher

Re: Eagle Crest Expansion CU-93-94 and V-93-28

From: Sandra Sands - resident of Canyon River Territory
3450 SW 81st Street
Redmond, Oregon 97756

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SOURCES DEPT
SALEM, OREGON

Up until two years ago, Eagle Crest was a good neighbor. Conflicts were minimal. There were a few problems with being denied river access, but that was manageable. When we voiced concerns over a proposed 4th of July fireworks display next to the dry canyon where we were unprotected by a fire district, Eagle Crest agreed to change the location. The resort brought about increased traffic to Cline Falls Road, but that was manageable. For the most part, residents and patrons at the resort directed traffic to downtown Redmond and our subdivision was buffered from the resort. Occasionally, Eagle Crest visitors would drive down our driveways, but it really wasn't a problem that couldn't be managed.

The problems arose two years ago, when we learned of the BLM landswap of Cline Butte - after the fact. There should have been public input, and the public should have been made aware of the fact that that public land was to become privately owned for development. We next learned that Eagle Crest proposed two more 18-hole golf courses, to be irrigated by ground water. As Deschutes County had been declared a drought disaster area, it didn't make sense that two more irrigated golf courses were being proposed when the rest of us were using dishwater to water our gardens and conserving the number of times we flushed our toilets. We asked why the County wasn't implementing drought procedures and taking steps to conserve further ground and surface water withdrawals.

In the interim, we were visited by Eagle Crest's agent, Charlie Brown, to offer us free cable television if we would sign off on our canyon's building and use restrictions. We were told Eagle Crest had built out into their designated buffer zone and needed to acquire property in the canyon to create a new buffer zone. We then learned that Eagle Crest planned to develop 500 homes with 1/2 acre irrigation each around the two new golf courses. That's when we became concerned about potential for surface and ground water contamination from 500 septic tanks upslope from us and upslope from the Deschutes River. Cline Buttes is more than a gentle slope, the soils are sandy and porous. Constant irrigation of two golf courses and 500 irrigated lawns will turn that porous soil into a porous sponge, drawing septic and chemicals into the ground water.

We formed Friends of Cline Butte and began to ask questions about cumulative impacts. We petitioned DEQ, Water Resources, the Dept. of Agriculture and the County to guarantee to us that our ground water supply would not be depleted, nor would our

ground water and river water resources be contaminated from high density, heavy ground water user development in a highly concentrated area. (Exh.)

State protective agencies responded by stating they did not have the resources, nor the manpower to monitor - that monitoring was up to the developer. Complaints of non-compliance with health department standards regarding Eagle Crest's cross connection program and lack of inspection the past eight years were turned over to W & H Pacific, (on Eagle Crest's payroll) to be taken care of, rather than an actual on-site investigation conducted by the Health Dept. (Exh.).

We were made aware of grease disposal contaminants from the restaurant oozing downslope toward the river (photographs are attached (Exh.). Our local health department didn't know anything about it.

Out of growing concern, we hired a consultant to take river water samples below the resort for analysis. (test results are attached, Exh.). Water samples were collected last October (not even peak season at the resort, nor when Cline Falls State park was being used). I'm not a biologist, nor do I claim to be. I don't know the full impacts of the test results, other than to point out that the fecal coliform count of the sample taken at the beginning of the resort reads 7 MPN. The fecal coliform count from the sample taken upriver from the resort, directly below the golf course, reads 26 MPN. The fecal coliform count quadruples directly below the resort. I don't know if the coliform count exceeds state standards or not, but what the test results do show is that fecal coliform is seeping into the river directly below Eagle Crest. DEQ needs to be monitoring.

The leech field at Eagle Crest is brown, not lushly green - why? Why do homeowners and visitors at the resort complain about the awful odor by the leech field and the pool?

Why has it been necessary for resort homeowners, at their own expense, to install water pressurizing systems?

Why did Eagle Crest need to install a pipe in the river and 100 horsepower pumping station to withdraw river water without authorization? (Exh.) I understand a Swallee river water transfer is in the works, but river water withdrawal was done illegally. In accordance with the 1988 Scenic Water Ways Act, stringent criteria will have to be met to allow a pumping station at the river. Conformance with Scenic Water Ways Act should be included in the Applicant's Burden of Proof, as well as conformance with the Water Ways Act in relationship to the proposed overpass/interchange above the Deschutes River.

If, as I believe Mr. Andres stated at last week's hearing, Eagle

Crest has presently built 58 homes and they are approved for 358 - why does Eagle Crest need to expand onto Cline Buttes. Wouldn't it be in the best interests of both the resort and the current homeowners to build-out approved lots in Phase I, rather than divert potential sales to Phase II?

In April, Oregon Water Resources Department, with encouragement by Rep. Beverly Clarno, was ready to grant approval of Eagle Crest's ground water permit for development on Cline Butte. ARLU DeCo and Water Watch pointed out a great many deficiencies and actual illegalities in their technical reports, and now OWRD has put approval on hold until objections are addressed. (Exh.) Isn't the Water Resources Dept. the guardian for all of us of this shared resource?

In the Staff Report, a great many issues are unresolved and are deferred until discretionary decision by the Planning Director at Final Master Plan approval. My objections are itemized and submitted for the record. It isn't fair to the public to defer these decisions to Final Master Plan approval. Burden of Proof issues must be addressed and resolved for the public as the magnitude of this application impacts all of us.

A public hearing must be held regarding the proposed 30' concrete overpass and interchange. Tax dollars will fund 60% of this project - to solely benefit Eagle Crest. How else might those gas tax payer dollars be used to benefit all the residents of Deschutes County? In Kittelson's September 17, 1992 letter to ODOT, "It is assumed that property for the proposed improvements can be acquired in a timely fashion and at a reasonable cost to the developer." Will any portions of the Oasis Drive subdivision, or the Cline Falls Mobile Home Park be required for construction of the overpass-----because Kittelson goes on to state, "In the event that the needed right-of-way cannot be readily acquired, ODOT or Deschutes County may need to condemn said property."

Testimony was presented last week to dispute Hobson's Economic Impact study, water testimony was presented to contradict the Newton study, questions were raised about county-wide traffic impacts. A wildlife biologist's testimony questioning Beak Consultants report was submitted. The issue of affordable housing was raised quite eloquently - Deschutes County at present has a waiting list of 1300, low-wage families looking for affordable housing. Eagle Crest proposes to create 200 more minimum-wage jobs. The waiting list will climb to 1,500 families waiting for affordable housing.

Deschutes County ranks among the highest cost of living in the nation. We now have four major destination resorts (50% of all the destination resorts in the northwest) in Deschutes County. Yes, the resorts contribute a considerable tax base. Yes, the resorts make charitable contributions. With four major

destination resorts in the county, why is the county so badly strapped for funds. I'm not blaming resorts solely for the county's woes - but just how much is it costing all of us to support tourism and an over-saturation of golf courses and up-scale fairway housing driving up property taxes? Is it truly in the best economic interest of the county to approve resort expansion? The county has expressed the need to diversify, in an attempt to attract family-wage businesses. Aspen-like development continues to raise our cost of living, forcing small businesses to close their doors and new businesses to shy away.

The application before you asks for a total expansion covering 1,254+ acres. Total density at Eagle Crest 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, a gas station, a shopping mall and post office, a convenience store, and three golf courses irrigated by ground water. Two years ago, Eagle Crest only wanted two more golf courses. Figuring only two people per unit, a population of 3,000 will explode onto the rural lands of Cline Buttes. This 3,000 figure doesn't even include golfers, shoppers at the mall, restaurant patrons, conference center participants, recreational tourists or special events participants - all dependent upon ground water, and septic systems, travelling rural roads.

The primary purpose of Goal 8 is to satisfy the recreational NEEDS of the citizens of the state and visitors. Goal 8 was never intended to provide cities in the rural lands.

In accordance with Ord. 92-004, Goal 8 requires the county to inventory Goal 5 resources fully protected under the county's acknowledged comprehensive plan. Regulations must be implemented to maintain natural features and to provide buffers and setbacks between improvements and activities taking place within destination resorts IN ORDER TO AVOID OR MINIMIZE ADVERSE EFFECTS OF DESTINATION RESORTS ON SURROUNDING LANDS.

Ground water is a Goal 5 resource. Eagle Crest's proposal will use 4,140 gallons per minute - or 6,000,000 gallons of ground water per 24-hour day. Deschutes County, along with Water Resources is obviously concerned about ground water appropriations. A comprehensive ground-water study of the Deschutes Basin has begun. The study may take a couple years to complete. Eagle Crest's burden of proof believes there is ground water to meet the needs of the resort. Until the applicant can prove that there is an ample supply of ground water to meet the needs of the resort, present ground water needs of all users of the same aquifer, and to meet the needs of future ground water appropriations, Eagle Crest's burden of proof is incomplete.

We urge denial of this application. Avoid the potential for serious ground water depletion until the comprehensive ground water study has been completed. Perhaps, in the interim, Eagle Crest can concentrate on promoting and building out already approved lots within Phase I. Perhaps, in the interim, Eagle Crest can resolve the grease disposal problem. Perhaps, in the interim, Eagle Crest can upgrade and rectify problems with the existing septic system serving Phase I. Perhaps, in the interim, steps can be taken to ensure contamination isn't polluting the Deschutes River. Perhaps, in the interim, studies can be undertaken to discover better solutions to traffic problems - solutions much less impactful to taxpayers and neighbors.

Attached is a copy of the proposed Bend Golf Course study, proposing low cost golf for residents, no cost or risk to taxpayers, irrigation from treated waste water rather than needing to tap into the ground water aquifer or seek irrigation rights, and insuring this course will be built and maintained in the most environmentally sensitive manner possible. Perhaps Eagle Crest can take the time to develop a more environmentally conscientious proposal.

Black Butte Ranch, the Inn of the 7th Mountain and Sunriver are all equipped with sewage treatment facilities. They did not ask to connect to an overburdened city sewer system, nor ask taxpayers to fund a new city treatment facility. They did not impact and irrevocably alter rural roads with construction of a tax-payer funded urban 30' concrete overpass. Nor did they encroach upon neighboring subdivisions. Perhaps Eagle Crest can re-think density and competitive commercial business requirements. Perhaps the entire project can be scaled down - more reasonably in keeping with rural lands.

We are asking Eagle Crest to willingly accept the costs of sound, quality development, because it will be Eagle Crest that reaps the profits.

We are asking the County and Eagle Crest to carefully weigh the plusses and the minusses. Protect Eagle Crest homeowners, the environment, and neighbors from future shock repercussions.

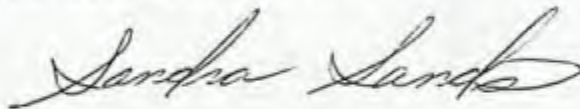
Perhaps Cline Butte just isn't feasible for the magnitude of development proposed. The carrying capacity of the land and of the water resources must be carefully evaluated. Perhaps adverse impacts are too numerous to effectively be mitigated.

Land
use action should not be based upon a developer's financial pressures, nor upon speculative land purchasing.

We have a commitment to care for our land, to prevent exploitation of our resources, of our open spaces, of our communities, and of our people.

Will a 1,300 acre destination resort, errecting over one-thousand condos and houses, inviting thousands of people to our rural EFU lands be a wise decision.

Thank you for your careful consideration.

A handwritten signature in cursive script, reading "Sandra Sands". The signature is fluid and elegant, with the first name "Sandra" and last name "Sands" clearly distinguishable.

Sandra Sands

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EXHIBITS - SUBMITTED FOR THE RECORD
FILE # CU-93-94 - EAGLE CREST
Date: November 3, 1993

WATER RESOURCES DEPT.
SALEM, OREGON

SUBMITTED TO: DALE VAN VALKENBERG, PLANNING DEPT.

FROM: SANDRA SANDS - ARLU DE CO and FRIENDS OF CLINE BUTTE
3450 SW 81st Street
Redmond, Oregon 97756

EXHIBITS SUBMITTED WITH OVERVIEW OF STATEWIDE PLANNING GOALS
IN RELATIONSHIP TO THE EAGLE CREST APPLICATION

- EXH. 1 - Testimony prepared by Gladys Biglor, Wildlife Biologist
- 2 - Bend Municipal Golf Course Study prepared by BLM
 - 3 - Bureau of Reclamation - Dept. of the Interior - report
 - 4 - State (Oregon) Water Law
 - 5 - Letter to Anne Squier, Sr. Advisor, Natural Resources
 - 6 - Letter to Martha Pagel, Dir. Water Resources Dept.
 - 7 - ARLU DeCo Water Testimony
 - 8 - Letter from Brent Lake, DLCD, regarding Goal 5
 - B - Public Opinion Poll Summary
 - C - Agricultural Lands Article
 - D - Farm Survey
 - E - 11/25/90 Bulletin Article
 - 9 - Water Conservation Article
 - 10 - Golf Course Water Statistics Article
 - 11 - Water Watch Testimony, 10/2/92
 - 12 - Canyon River Territories Petition
 - 13 - Testimony prepared by Dr. M. Turner Re: Economics
 - 14 - Memo from C. Morrow re: Groundwater
 - 15 - Sands Testimony
 - 16 - Testimony presented Re: HB-2932 - Des. Resorts

EXHIBITS - FILE CU-93-94, 11/3/93, Page 2

EXHIBITS:

- 17 - Testimony presented to LCDC on 12/13/91
- 18 - ARLU DeCo Testimony 11/10/91
- 19 - Testimony presented to Senate Committee on Agriculture
and Natural Resources
- 20 - Testimony presented to Planning Comm. 10/3/91
- 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
- 25 - Cost of Living Article

For the Record: File CU-93-94 and V-93-28

October 14 and 21, 1993

From: Sandra Sands

OVERVIEW OF OREGON'S STATEWIDE PLANNING GOALS

GOAL ONE: To develop a citizen involvement program that insures the opportunity for citizens to be involved in ALL phases of the planning process.

Federal, state and regional agencies and special-purpose districts (i.e. water districts) shall coordinate their planning efforts with the affected governing bodies and make use of existing local citizen involvement programs established by counties and cities.

(2) Plan Preparation - The general public, through the local citizen involvement programs, should have the opportunity to participate in developing a body of sound information to identify public goals, develop policy guidelines, and evaluate alternative land conservation and development plans for the preparation of the comprehensive land use plan.

Eagle Crest resort applied to the County in 1991 to allow destination resorts in protected farm and forest lands. Hundreds of citizen letters were submitted for the record, and over-ridden in the final decision by the Board of County Commissioners.

In addition, an integral requirement of Goal 8 was not met. The county did not inventory recreational NEEDS in the planning area - based upon adequate research and analysis of public wants and desires. AN INVENTORY OF RECREATIONAL NEEDS OF THE CITIZENS OF THE STATE AND VISITORS HAS NEVER BEEN COMPILED, BY EITHER THE COUNTY OR EAGLE CREST.

The County did, however, conduct a PUBLIC OPINION SURVEY TO IDENTIFY PUBLIC OPINION CONCERNING LAND USES ON RURAL LAND IN THE COUNTY. RESPONSE TO THE MARCH, 1992, SURVEY (which was above anticipated) EMPHATICALLY DETERMINED THAT DESCHUTES COUNTY HAS ENOUGH DESTINATION RESORTS. 80% OF THE RESPONDENTS FEEL THERE ARE ALREADY TOO MANY, OR ENOUGH, DESTINATION RESORTS IN DESCHUTES COUNTY. 75% OF THOSE POLLED FAVOR PROTECTING FARM LAND - BY RESTRICTING NON-FARM USES, SUCH AS SUBDIVISIONS, DESTINATION RESORTS, AND GOLF COURSES.

Goal 1 - Technical Information: Technical information should include, but not be limited to energy, natural environment, political, legal, economic and social data, and places of cultural significance, as well as those maps and photos necessary for effective planning. Until cumulative impact data has been

researched and presented and reviewed by the public, the County and the applicant have been remiss in their responsibilities to the public.

GOAL 2 - LAND USE PLANNING: All land use plans shall include identification of issues and problems, inventories and other factual information for EACH APPLICABLE STATEWIDE PLANNING GOAL, evaluation of alternative courses of action and ultimate policy choices taking into consideration SOCIAL, ECONOMIC, ENERGY AND ENVIRONMENTAL NEEDS.

Goal 2 EXCEPTIONS that have not been met: The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site, and the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The proposed Eagle Crest development on Cline Butte takes exception or does not comply with some or all goal requirements applicable to the subject properties and situations.

Applicable Goal 2 Site and Area Specific Implementation Measures: (1) construction of public facilities, (2) the provision of land-related public services, such as fire and police, (3) the awarding of state and federal grants to local governments to provide these facilities and services - (does this include a tax-payer funded overpass to accommodate solely Eagle Crest?), and (4) leasing of public lands (1.7 acres of BLM for Eagle Crest's 300,000 gallon water storage reservoir).

GOAL 3 - AGRICULTURE: Agriculture lands shall be preserved and maintained for farm use, consistent with existing and FUTURE NEEDS FOR AGRICULTURE PRODUCTS, FOREST, AND OPEN SPACE.

Conversion of rural agricultural land to urbanizable land shall be based upon consideration of the following factors:

1. environmental, energy, social and economic consequences,
2. demonstrated NEED consistent with LCDC goals
3. unavailability of an alternative suitable location for the requested use (the County has a 23-year supply of rural land already approved for development),
4. compatibility of the proposed use with related agriculture land (until the irrigated portion of destination resort criteria has been addressed and mapped, compatibility has NOT been addressed,

A governing body proposing to convert rural agricultural land to urbanizable land (Eagle Crest proposes a density exceeding

the City of Redmond population ten years ago, as well as commercial uses) shall follow the procedures and requirements set for in the Goal 2 for goal exceptions.

GOAL 3 PLANNING CRITERIA for consideration:

- (1) Urban growth should be separated from agricultural lands by buffer or transitional areas of open space, and,
- (2) Plans providing for the preservation and maintenance of farm land for farm use should consider as a major determinant the CARRYING CAPACITY OF THE AIR, LAND AND WATER RESOURCES OF THE PLANNING AREA.

GOAL 4 - FOREST LANDS: To conserve forest lands by maintaining the forest land base and to protect the state's economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land, consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

GOAL 5 - TO CONSERVE OPEN SPACE AND PROTECT NATURAL AND SCENIC RESOURCES:

- (1) INSURE OPEN SPACE
- (2) PROTECT SCENIC AND HISTORIC AREAS and NATURAL RESOURCES FOR FUTURE GENERATIONS
- (3) PROMOTE "HEALTHY" AND "VISUALLY ATTRACTIVE ENVIRONMENTS" IN HARMONY WITH THE NATURAL LANDSCAPE CHARACTER.

The following areas shall be inventoried: (a)land needed or desirable for open space, (b)mineral and aggregate resources, (c)energy sources, (d)fish and wildlife areas and habitats, (e)ecologically and scientifically significant natural areas, including desert areas, (f)outstanding scenic views and sites, (g)water areas, wetlands, watersheds, and groundwater resources, (h)wilderness areas, (i)historic areas, sites, structures and objects, (j)cultural areas, (k)potential and approved Oregon recreational trails, (l)potential and approved federal wild and scenic waterways and state scenic waterways.

Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified - the ECONOMIC, SOCIAL, ENVIRONMENTAL AND ENERGY CONSEQUENCES OF THE CONFLICTING USES SHALL BE DETERMINED - AND PROGRAMS DEVELOPED TO ACHIEVE THIS GOAL.

Cline Buttes is protected under Federal Treaty of 1855 to the Confederated Tribes of Warm Springs. Archeological findings must be inventoried and protected.

Natural Areas - includes land and water that has substantially retained its natural character and land and water that, although

altered in character, is important as habitats for plant, animal or marine life, for the study of its natural historical, scientific or paleontological features, or for the appreciation of its natural features. CLINE BUTTE HAS HISTORICALLY BEEN A SITE OF ANCIENT WASHES, INDIAN CAMPSITES (findings of arrowheads, obsidian and projectile points have been documented and can be attested to by Oasis Drive residents). Historically, campsites were erected above washes, in proximity to the WHITE MILK VETCH (ASTRAGALUS PECKII) FOUND ON CLINE BUTTE. White milk vetch is Federally protected as an Endangered Species Plant. PLEASE REFER TO GLADYS BIGLOR TESTIMONY, SUBMITTED 10/14/93 FOR THE RECORD, AND FINDINGS BY BLM IN RELATIONSHIP TO ENDANGERED PLANT SPECIES IN THE BEND MUNICIPAL GOLF COURSE ASSESSMENT.

As stated in the BLM response to Eagle Crest's application, further study of GOLDEN EAGLE HABITAT must be conducted and documented.

OPEN SPACE criteria under Goal 5: (a) CONSERVE AND ENHANCE NATURAL OR SCENIC RESOURCES, (b) PROTECT AIR OR STREAMS OR WATER SUPPLY, (c) PROMOTE CONSERVATION of soils, wetlands, etc., (d) conserve landscaped areas, such as public or private golf courses, (e) ENHANCE THE VALUE TO THE PUBLIC of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries, or OTHER OPEN SPACE.

The County, under Goal 5 and Ord. 18.13050, is required to analyze supporting delineation of the impact area--adjacent areas must be included in the Burden of Proof. The Cline Falls area is on a KNOWN ACTIVE FAULT and the Deschutes River directly below Eagle Crest is part of the STATE SCENIC WATERWAYS ACT.

GROUNDWATER RESOURCES MUST BE INVENTORIED AND PROTECTED: This is a mandated portion of Goal 5. Even Gonthier, in his report, recommends ADDITIONAL WORK BE DONE TO ASSESS THE EFFECT OF LONG TERM PUMPING, AND INCLUDE SITES OUTSIDE THE RESORT BOUNDARIES.

"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 (State Ord. 536.310

State Ord. 690-410-010(1) provides that "groundwater overdraft and contamination SHALL BE PREVENTED to avoid health hazards, environmental damage, and costly correction. INTERFERENCE BETWEEN GROUNDWATER USES AND COMPETING GROUNDWATER AND SURFACE WATER USES SHALL BE PREVENTED AND/OR CONTROLLED TO PROTECT THE WATER RESOURCE AND EXISTING RIGHTS."

The Bureau of Reclamation states in its 10/1/91 report: "Past studies have indicated little use is made of the regional

aquifer, but during the initial part of this Conservation Project, study evidence suggested that increasing aquifer usage was occurring."

From the Bureau of Reclamation report: - 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 TABLE WITH THE DEPTH TO WATER RANGING FROM 50 to 100 FEET ABOVE THE MAIN AQUIFER. ONE SUCH AREA IS LOCATED ABOUT MID-WAY BETWEEN BEND AND REDMOND. THIS PERCHED WATER TABLE HAS A SHALLOW WATER TABLE AT 200 to 400 FEET BELOW GROUND SURFACE, WHEREAS THE REGIONAL WATER TABLE IS FOUND BETWEEN 500-600 FEET BELOW GROUND SURFACE.

Note: Neighboring wells within the Cline Butte area range from a depth of a couple-hundred feet to 600'. Withdrawal from perched water of 6,000,000 gallons a day, could very well cause breakdown of above perched water tables when the deeper aquifer begins to lower standing water levels.

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

Note: Determination of groundwater withdrawals the magnitude of Eagle Crest's must be studied pertaining to future impacts on SURFACE WATER. Eagle Crest's Burden of Proof is incomplete until this issue has been objectively addressed.

The Bureau's report states: "The City of Bend currently pumps about 7,000 acre feet per year and expects to increase that to 8,200 acre feet per year IN A FEW MONTHS." (Note: This report was compiled in 1991 - what is Bend's current withdrawal, as well as future groundwater withdrawals based on projected growth rates?) One golf course, irrigated from groundwater requires between 1,000,000 to 1,500,000 gallons per day.

The Bureau's report goes on to state: "Before the Conservation project is begun, the perched aquifer between Bend and Redmond and any other perched aquifers that would be affected by the project MUST BE LOCATED AND DELINEATED. AFTER THESE AREAS ARE LOCATED, THE WELLS WITHIN EACH AREA MUST BE INVENTORIED TO DETERMINE WHICH WELLS PUMP FROM THE PERCHED AQUIFERS AND MAY BE AFFECTED BY THE PROJECT."

"The effect on current groundwater users would be minimal from

this conservation project, but the losses to the down-river 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."

The Bureau's conclusions, erroneously conclude that Deschutes County's growth is toward urban growth rather than rural growth when one destination resort, outside the urban area, can erect a resort city, with a population of well-over 3,000 and ground water requirements of 6,000,000 gallons a day, as well as surface water withdrawals of nearly 2,000,000 gallons per day.

GROUNDWATER MUST BE INVENTORIED AND PROTECTED IN ACCORDANCE WITH GOAL 5. GROUNDWATER SUPPLIES, PERCHED WATER TABLES, IMPACTS ON SURFACE WATER, CURRENT APPROPRIATIONS AND FUTURE GROUNDWATER APPROPRIATIONS (INCLUDING EAGLE CREST'S REQUIREMENTS), REDUCTIONS IN GROUNDWATER RECHARGE CAPABILITY FROM THE CONSERVATION PROJECT MUST BE STUDIED AND ADDRESSED.

DESCHUTES COUNTY WILL MEET GOAL 5 WATER RESOURCES CRITERIA UPON COMPLETION OF THE DESCHUTES BASIN GROUNDWATER STUDY CURRENTLY UNDERWAY. The Study will help state and county officials determine how much groundwater is available to tap for residential needs, agriculture irrigation, golf courses, destination resorts and other uses. The Study will also help explain how surface water and groundwater intermingle and how tapping one source may affect the other.

UNTIL THIS COMPREHENSIVE STUDY OF THE DESCHUTES BASIN HAS BEEN COMPLETE, DESCHUTES COUNTY WILL BE NEGLIGENT OF ITS RESPONSIBILITIES TO INVENTORY AND PROTECT ITS GROUND AND SURFACE WATER RESOURCES TO BENEFIT ALL THE CITIZENS OF THE COUNTY.

DENIAL OF EAGLE CREST'S APPLICATION, AT LEAST UNTIL THE GROUND WATER STUDY HAS BEEN COMPLETED, IS IN THE BEST INTERESTS OF ALL WATER USERS IN DESCHUTES COUNTY.

In addition, attached are copies of Oregon State Water Law pertaining to Groundwater and Surface Water.

GOAL 6 - OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES: To MAINTAIN AND IMPROVE the quality of the air, water and land resources of the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes,

standards, etc., such discharges SHALL NOT (1) EXCEED THE CARRYING CAPACITY OF SUCH RESOURCES, CONSIDERING LONG-RANGE NEEDS, (2) SHALL NOT DEGRADE SUCH RESOURCES, (3) SHALL NOT THREATEN THE AVAILABILITY OF SUCH RESOURCES.

I strongly suggest Eagle Crest's Burden of Proof cannot meet Goal 6 criteria - not only within the framework of the proposed resort expansion, but as is also applicable to adjacent lands and upstream river water resources.

Air quality cumulative impacts must be addressed based on the volume of traffic Eagle Crest will generate, not only with a density of over 3,000, but to include recreational tourists, golfers, shoppers, restaurant patrons, special events participants, conference participants. Cumulative impacts addressing noise and traffic pollution must be included.

Until the comprehensive analysis of the groundwater carrying capacity of the Deschutes Basin has been completed, the County will be in violation of Goal 6 mandatory criteria if the Eagle Crest application for expansion is approved.

PROGRAMS SHOULD MANAGE LAND CONSERVATION AND DEVELOPMENT ACTIVITIES IN A MANNER THAT ACCURATELY REFLECTS THE COMMUNITY'S DESIRES FOR A QUALITY ENVIRONMENT AND A HEALTHY ECONOMY AND IS CONSISTENT WITH STATE ENVIRONMENTAL QUALITY STATUTES, RULES, STANDARDS AND IMPLEMENTATION PLANS. Please refer to the Public Opinion Poll and Marge Turner's testimony regarding Economic Impacts of resort development to the public.

GOAL 7: To protect life and property from natural disasters and hazards.

Areas of Natural Disasters and Hazards - are areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.

(1) Areas subject to natural hazards should be evaluated as to the degree to hazard present. Proposed developments should be keyed to the degree of hazard and to the limitations on use imposed by such hazard in the planning areas.

DROUGHT IS A NATURAL HAZARD. Deschutes County has suffered seven consecutive years of drought. Cumulative impacts are unknown. Groundwater rechargability capabilities are still unknown. Catharine Morrow states in the attached memo dated July 24, 1991: Some of the County's records are NOT VERY ACCURATE. There is scant information about which wells are

NOTE: CLINE BUTTE SITS ON AN ACTIVE FAULT - AS DOCUMENTED IN SUBMITTED TESTIMONY

abandoned, capped, or unused. The records are being entered on a data base; however, the process is NOT COMPLETE. Therefore, it is NOT POSSIBLE TO QUICKLY OR ACCURATELY ASSESS THE AMOUNT OF WATER CURRENTLY BEING WITHDRAWN FROM THE AQUIFER. TO DETERMINE THE AMOUNT OF WATER USED BY GOLF COURSES FROM WELLS WOULD REQUIRE A REVIEW OF INDIVIDUAL COURSES AND WELL LOGS. HOWEVER, THE WELL LOGS DO NOT SHOW HOW MUCH WATER IS ACTUALLY BEING WITHDRAWN - THEY SHOW ONLY A MEASUREMENT OF GALLONS PER MINUTE AVAILABLE. BOUNDARIES FOR AQUIFERS HAVE NOT BEEN DEFINITELY IDENTIFIED. IT IS DIFFICULT TO DETERMINE IF WELL WATER IS HYDROLOGICALLY CONNECTED OR RECHARGED FROM THE RIVER OR IRRIGATION CANALS, RATHER THAN SOLELY FROM THE AQUIFER.

"HALF OF THE TOTAL PERCIPITATION IS SURFACE RUN-OFF AND HALF ENDS UP IN THE AQUIFER" - according to Watermaster, Bob Main.

"THE SURFACE WATER IS OVER-APPROPRIATED"!

The County is mandated by state law to inventory and protect its groundwater resource. An over-saturation of golf courses in the dessert, irrigated by groundwater is subject to examination and qualification of the carrying capacities of such resources. One average golf course (not in an arid climate) requires 1.5 million gallons of water daily to keep the greens green. (documentation attached) Deschutes County continues to allow an influx of thirsty golf courses in an area impacted by seven years of drought. The County applied for and received drought disaster relief the past few years. The County should apply drought management procedures, rather than allowing more heavy ground and/or surface water development. in accordance with State Drought Management Procedures and Goal 6.

(2) Implementation of Goal 6: When locating developments in areas of known natural hazards (seven consecutive years of drought), the density or intensity of the development should be limited by the degree of the natural hazard.

GOAL 8 - RECREATIONAL NEEDS: To satisfy the RECREATIONAL NEEDS of the citizens of the state and visitors and, WHERE APPROPRIATE, to provide for the siting of NECESSARY RECREATIONAL FACILITIES including destination resorts.

Appropriate growth should be centered near the Urban Growth areas, where services such as public transportation, police and fire protection, city water and city sewer are available - not in the rural EFU lands.

A NEED FOR ADDITIONAL RECREATIONAL FACILITIES has NEVER been determined. At present, 50% of the total destination resorts in all of the Northwest are located in Deschutes County. A NEED FOR MORE HAS NEVER BEEN PROVEN.

RECREATION PLANNING: The requirements for meeting such needs,

now and in the future, shall be planned for by governmental agencies having responsibility for recreation areas, facilities and opportunities: (1) in coordination with private enterprise; (2) IN APPROPRIATE PROPORTIONS; and (3) IN SUCH QUANTITY, QUALITY AND LOCATIONS AS IS CONSISTENT WITH THE AVAILABILITY OF THE RESOURCES TO MEET SUCH REQUIREMENTS.

Goal 8 criteria, as stated above, cannot be met until the comprehensive groundwater study of the Deschutes Basin has been completed - addressing present and future ground and surface water appropriations, rechargability and stability of the water resources.

Further, irrigated lands have not been inventoried and applied under Goal 8 criteria. The expansion of Eagle Crest resort must also meet the three-mile limit irrigated lands criteria. A listing of dairies in the county have previously been submitted near Eagle Crest.

(b) Improvements and activities shall be located and designed to avoid or minimize ADVERSE EFFECTS OF THE RESORT ON USES ON SURROUNDING LANDS. Eagle Crest proposes to develop up to 60 acres in Canyon River Territory. Allowing 1 1/2 units per acre, Eagle Crest could conceivably develop 90 homesites within their 60 acres - nearly doubling the present density of Canyon River Territory. Ground and surface water quantity and quality impacts directly resulting from the creation of a City depending upon groundwater and rural septic systems will have a negative, adverse impact on the surrounding lands. Use of pesticides and fertilizers on three golf courses, upslope, in a very concentrated area will adversely impact surrounding lands and water resources. Traffic impacts, equalling traffic generated by a city with a population of 3,500 will adversely impact surrounding lands. Potential for crime, fire, trespass, transient populations in a rural residential area will adversely impact the surrounding homeowners. Creating 200 more minimum wage jobs will impact the existing affordable housing problems of Deschutes County.

Cline Butte is surrounded by designated BLM grazing allotments, (attached is a listing with maps). Potential impacts from increased recreational and residential development by the expansion of Eagle Crest on established grazing practices must be addressed in the applicants Burden of Proof. Cattle have already broken through fences to trample the golf course on Cline Butte. Lush, green turf in the middle of surrounding sage brush and juniper is bound to attract hungry cattle and wildlife - where they are accustomed to grazing. Eagle Crest's proposed development is NOT COMPATIBLE WITH THE SITE AND ADJACENT LAND USES.

Eagle Crest's proposed development is not compatible with adjacent land uses as pertains to the existing established rural residential communities - Oasis Drive, Cline Falls Mobile Home

Park and Canyon River Territory. Density at Eagle Crest resort equals that of a small city, while adjacent lands are occupied by controlled rural residential development, governed by minimum lot sizes - five and ten acre parcels - to ensure density in keeping with the carrying capacity of the rural lands, resources, traffic, and potential for contamination and destruction of the rural character of the area. Minimum lot size was designated to offer protection from adverse density impacts on wildlife.

Adjacent communities to Eagle Crest are rural residential homes cared for and occupied by owners. Owners care for the subdivision roads, share wells, maintain their properties, look out for each other, respect each other's property, and respect the land and the environment. Density in these three subdivisions is controlled to minimize impacts to the rural area and to safeguard against fire potential.

Eagle Crest proposes to develop many commercial businesses within the resort. The resort presently advertises to invite the public to their restaurant, to their beauty shop and to their spa for massage. The resort invites the public to special events, such as rodeos, draft horse shows, antiques shows, jazz festivals, etc.

Eagle Crest proposes to expand the resort into properties established in Canyon River Territory. They propose to establish what could add up to 90 homes on 60 acres in this subdivision. Some of the homes will figure in as "overnight lodging". Eagle Crest will be responsible for bringing transient traffic and overnights into this subdivision. Potential for crime, traffic impacts, conflicts, invasion of privacy, destruction of property, conflicts with livestock and pets, conflicts regarding established speeds on rural subdivision roads, conflicts between tourists and established rural residential families are bound to arise. Eagle Crest proposes to create a density on their 40-60 acres to double the density of the present subdivision. ADVERSE IMPACTS TO ADJACENT LANDS CANNOT BE MITIGATED. Proposed density by Eagle Crest in the Canyon River Territories subdivision is definitely disproportionate to the existing approved rural residential density of 60+ homes on ten-acre and five-acre minimum lot parcels.

Destination resort siting (2) - Counties shall ensure that destination resorts are compatible with the site and adjacent land uses.

Should Eagle Crest be allowed to develop from 40 - 90 homesites on their acquired 60+ acres in the Canyon - domestic water use and irrigation use and septic use and traffic will exceed the total usages by the collective established subdivision of Canyon River Territories.

GOAL 8 - HIGH VALUE CROP AREA: The High Value Crop Area Designa-

tion is used for the purpose of minimizing conflicting uses in resort siting and is NOT MEANT TO REVISE THE REQUIREMENTS OF GOAL 3 OR ADMINISTRATIVE RULES INTERPRETING THE GOAL.

Definition of Agricultural Land in accordance with Goal 3:
"...and other lands which are suitable for farm use taking into consideration soil fertility, SUITABILITY FOR GRAZING, CLIMATIC CONDITIONS, EXISTING AND FUTURE AVAILABILITY OF WATER FOR FARM IRRIGATION PURPOSES, EXISTING LAND-USE PATTERNS, TECHNOLOGICAL AND ENERGY INPUTS REQUIRED, OR ACCEPTED FARMING PRACTICES. LANDS IN OTHER CLASSES WHICH ARE NECESSARY TO PERMIT FARM PRACTICES TO BE UNDERTAKEN ON ADJACENT OR NEARBY LANDS, SHALL BE INCLUDED AS AGRICULTURAL LAND IN ANY EVENT.

As evidenced by the attached BLM range grazing allotments (maps included) - the following BLM allotments completely surround the proposed Eagle Crest expansion on Cline Butte:

<u>ALLOTMENT</u>	<u>BLM ACRES</u>	<u>AUM'S</u>
Cline Butte/FryRear	11,416	700
Desert Spring	1,947	112
Home Ranch	4,147	193
Maston	3,382	209
Odin Falls	3,369	-
Struss	2,294	143
Whiskey Still	1,327	111

These lands are zoned EF// suitable for grazing, total BLM range grazing acreage surrounding Cline Butte has historically been accepted farming practices and shall be included as agricultural land - protected as a Goal 3 resource.

Non-farm use permitted within farm use zones should be minimized to allow for maximum agricultural productivity. Extension of services, such as sewer and water supplies into rural areas should be appropriate for the needs of agriculture, farm use and non-farm use established under ORD215.213 and 215.283. Services that need to pass through agricultural lands should be limited in capacity to serve specific service areas and identified needs. Forest and open space uses should be permitted on agricultural land that is being preserved for future agricultural growth.

The purpose of Goal 3 is to preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products and open space. These lands shall be inventoried (both non-irrigated and irrigated) and Preserved by adopting exclusive farm use zones pursuant to ORS 215. Such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the CONTINUATION OF THE EXISTING COMMERCIAL AGRICULTURAL ENTERPRISE WITHIN THE AREA.

Conversion of rural agricultural land to urbanizable land shall be based up consideration of (1) environmental impacts, energy, social and economic consequences; (2) demonstrated NEED consistent with LCDC goals; (3) unavailability of an alternative suitable location for the requested use; (4) compatibility of the proposed use with related agricultural land.

Cumulative impacts of high density resort development, as proposed by Eagle Crest on Cline Butte have not been addressed by the county, nor in Eagle Crests Burden of Proof as pertains to ALL THE ABOVE GOAL 3 Criteria.

Traffic, ground and surface water impacts, urbanization of EFU lands (a resort city population of 3,000+), wildlife impacts, reduction of BLM range grazing lands by private ownership for resort development are among the considerations that must be addressed. The proposed Eagle Crest development on Cline Butte is NOT compatible with established agricultural use in the area, and is in violation of Goal 3 criteria.

Plans providing for the preservation and maintenance of farm land for farm use should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should NOT EXCEED THE CARRYING CAPACITY OF SUCH RESOURCES.

MEASURES SHOULD BE ADOPTED TO MINIMIZE THE ADVERSE ENVIRONMENTAL EFFECTS OF RESORT DEVELOPMENT ON THE SITE, PARTICULARLY IN AREAS SUBJECT TO NATURAL HAZARDS.

Measures have not been presented by Eagle Crest to minimize environmental effects of resort development on the site, nor to adjacent subdivisions, nor to surrounding grazing practices, nor effectively to wildlife impacts, nor in relationship to drought management considerations, nor as pertains to traffic impacts. The Eagle Crest proposed expansion multiplies environmental impacts on the site and the surrounding lands.

Goal 8 was intended to meet the RECREATIONAL NEEDS OF CITIZENS OF THE STATE AND VISITORS - NOT TO CREATE URBAN RESORT CITIES IN THE RURAL EFU LANDS.

Attached for consideration is a proposal presented to BLM by the Oregon Natural Resources Council for a CLINE FALLS BUTTES JUNIPER GRASSLAND ECOLOGICAL PRESERVE. The proposal fits the ecological, recreational and scientific values of the area.

GOAL 9 - TO PROVIDE ADEQUATE OPPORTUNITIES THROUGHOUT THE STATE FOR A VARIETY OF ECONOMIC ACTIVITIES VITAL TO THE HEALTH, WELFARE, AND PROSPERITY OF OREGON CITIZENS.

Comprehensive plans and policies shall contribute to a STABLE AND HEALTHY ECONOMY in all regions of the state. Such plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the HEALTH OF THE CURRENT ECONOMIC BASE, MATERIALS AND ENERGY AVAILABILITY AND COST, LABOR MARKET FACTORS, EDUCATIONAL AND TECHNICAL TRAINING PROGRAMS, AVAILABILITY OF KEY PUBLIC FACILITIES, NECESSARY SUPPORT FACILITIES, CURRENT MARKET FORCES, LOCATION RELATIVE TO MARKETS, AVAILABILITY OF RENEWABLE AND NON-RENEWABLE RESOURCES, AVAILABILITY OF LAND, AND POLLUTION CONTROL REQUIREMENTS.

The expansion of Eagle Crest on Cline Butte does not meet the above Goal 9 criteria. Destination resorts and real estate do not offer a stable, nor healthy economy. Resorts contribute to unemployment by very virtue of the seasonal, service-related jobs they create. The proposed expansion expects to employ 200 more seasonal, minimum-wage employees. Current economic health of Deschutes County speaks for itself: Small businesses are being forced to close their doors. Aspen-like development is preventing potential family-wage businesses from coming into an area where the cost of living is the third highest in the nation. The county has declared the need to diversify - yet out of all the destination resorts in the Northwest - over 50% of the major resorts are now located in Deschutes County - in addition, Eagle Crest proposes to expand and more resorts and golf courses are on the drawing board - prohibiting economic diversification.

Deschutes County cannot now keep up with the rate of growth. Semi-annual inspections of restaurants by the Health Dept. have not been conducted in the past three years because of lack of inspectors to meet the growing needs - thereby jeopardizing the health and well-being of the residents of this county. County offices cannot afford to operate on a five-day work week. DEQ is backlogged. The appraiser is overloaded and cannot make property inspections. Utility companies cannot meet demands of growth. Nor can police and fire protection services meet demands of growth. Nor can schools meet demands of growth.

Property values and property taxes continue to soar. My property value this past year increased by \$10,000. I called the appraisers office to ask why and was told it was a reflection of sales in the area. Canyon River Territory is comprised mainly of depreceable mobile homes. Could it be that an influx of high-scale fairway resort homes is driving up our property taxes? How fair is it to senior citizens in the vicinity of resorts to have to pay escalated property taxes on their retirement homes - on a fixed income. Most of us bought our properties for \$50,000 - \$60,000 - now we are paying taxes on properties valued well over \$100,000 - a reflection of sales in the area.

The economic health of all the citizens of Deschutes County has been impacted by disproportionate resort development.

AVAILABILITY OF GROUND AND SURFACE WATER RENEWABLE AND NON-RENEWABLE RESOURCES HAS NOT BEEN INVENTORIED, NOR PROTECTED UNTIL COMPLETION OF THE GROUND WATER ANALYSIS OF THE DESCHUTES BASIN.

Speculative land purchasing of farm land for future development prevents farmers from expanding and contributes to higher taxes and costs of farming.

Eagle Crest is asking for an overpass/interchange to meet the needs of the resort. Taxpayers will fund at least 60% of the overpass - to benefit, solely, Eagle Crest. How better might those taxpayer dollars be utilized to meet the needs of the public?

To quote Commissioner Throop: "GROWTH DOES NOT PAY FOR ITSELF"!

To approve the expansion of Eagle Crest is to further contribute to an unhealthy economic base and an unstable economy, burdening the citizens of Deschutes County with the hidden costs of accelerated, out-of-control Aspen-like growth.

GOAL 10 - TO PROVIDE FOR THE HOUSING NEEDS OF CITIZENS OF THE STATE: Buildable lands for residential use shall be inventoried and plans shall encourage the availability of ADEQUATE NUMBERS OF NEEDED HOUSING UNITS AT PRICE RANGES AND RENT LEVELS WHICH ARE COMMENSURATE WITH THE FINANCIAL CAPABILITIES OF OREGON HOUSEHOLDS AND ALLOW FOR FLEXIBILITY OF HOUSING LOCATION, TYPE AND DENSITY.

Planning: A comparison of the distribution of the existing population by income with the distribution of available housing units by cost and a determination of expected housing demand at varying rent ranges and cost levels.

An inventory of present and proposed future resort high-end, exclusive fairway housing should be mandated before approval of more exclusive fairway housing. Deschutes County is over-saturated with fairway housing and golf courses, while a survey presented during hearings of this application, showed that there is a waiting list in Deschutes County of 1,300 low-wage families presently waiting for AFFORDABLE HOUSING.

Approval of this application for expansion will add 200 more low-wage employees to Deschutes County - needing affordable housing. This application is a direct contradiction of Goal 10 criteria.

GOAL 11 - PUBLIC FACILITIES AND SERVICES: Public facilities and services should be appropriate to support sufficient amounts of land to maintain an adequate housing market in areas undergoing development or redevelopment.

The level of key facilities that can be provided should be considered as a principal factor in planning for various densities and types of urban and rural land uses.

Key facilities and services such as police and fire protection, highway maintainance must be provided to meet the needs of Eagle Crest's expansion above and beyond requirements of controlled rural growth.

Cumulative impacts and costs to taxpayers must be identified and examined.

GOAL 12 - TRANSPORTATION: Major transportation facilities should AVOID dividing existing economic farm units and urban social units. Eagle Crest's expansion, including residential and transient populations, commercial businesses, recreational facilities, public participation events are equivalent to urban social uses of rural roads in EFU zoned lands, and are to be discouraged in accordance with this goal.

High density development should be designed to be principally served by mass transit.

The number and location of major transportation facilities should conform to applicable state or local land use plans and policies designed to direct urban expansion (a resort city density of over 3,000) to areas identified as necessary and suitable for urban development. A 30', concrete, urban overpass/interchange, necessary to meet the needs of Eagle Crest's expansion was not part of the state and local land use plans - but, rather, was requested by Eagle Crest. The planning and development of transportation facilities in rural areas should discourage urban growth in rural lands.

APPLICABLE DEFINITIONS

CARRYING CAPACITY: Level of use which can be accommodated and continued without IRREVERSIBLE IMPAIRMENT OF NATURAL RESOURCES PRODUCTIVITY, THE ECOSYSTEM AND THE QUALITY OF AIR, LAND, AND WATER RESOURCES.

The CARRYING CAPACITY of the Deschutes Basin, as pertains particularly to the Cline Butte area, has not been determined indisputably. The carrying capacity of this aquifer to meet present needs, the needs of Eagle Crest, and future appropria-

tions has not been determined indisputably. Applicants Burden of Proof pertaining to carrying capacity of the groundwater resource is incomplete.

Impacts (the consequences of a course of action; effect of a goal, guideline, plan or decision): Cumulative adverse impacts resulting both directly and indirectly from approval of this application remain unresolved. Who is liable? If Water Resources approves Eagle Crest's groundwater and surface water applications prior to completion of the Comprehensive Ground Water Study of the Deschutes Basin, while the aquifer's carrying capacity is undetermined - and if the County encourages the magnitude of surface and ground water usage by approving Eagle Crest's application for expansion prior to completion of the Study - who is liable for the consequences?

Goal 5 mandates the County to INVENTORY AND CONSERVE WATER RESOURCES. TO CONSERVE IS TO MANAGE IN A MANNER WHICH AVOIDS WASTEFUL OR DESTRUCTIVE USES - AND PROVIDES FOR FUTURE AVAILABILITY.

Deschutes County has elected to diversify from tourism in an attempt to broaden the county's economic base and improve public gain. To diversify is to establish a variety of natural, environmental, economic, and social resources, values, benefits, and activities.

Approval of Eagle Crest's application for expansion thwarts the county's plan to diversify. Between the two states of Washington and Oregon, 50% of all the major destination resorts in the Northwest are now in Deschutes County. Economic gain to the public is questionable, at best. Adverse impacts from a disproportionate number of resorts in one county are significant - as evidenced by one of the highest costs of living in the nation in Deschutes County, seasonal unemployment generated minimum-wage jobs in a county with a waiting list for affordable housing of 1,300. Family-wage businesses will not settle in Deschutes County because of the high cost of living. Impacts to agricultural land and productivity and costs of farming - from speculative land purchasing for development have not and cannot be mitigated.

The PUBLIC GAIN - the net gain from combined ECONOMIC, SOCIAL, AND ENVIRONMENTAL EFFECTS which accrue to the public because of a use or activity and its subsequent resulting effects.

The net public gain, and the net public loss, resulting from an oversaturation of destination resorts in Deschutes County must be examined carefully and objectively - so that approval of Eagle Crest's, or any destination resort application - truly, and indisputably results in PUBLIC GAIN, not an added burden

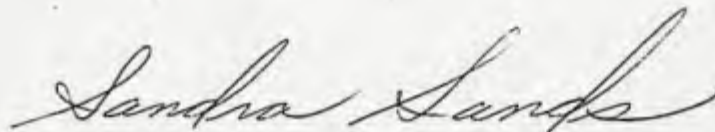
to the taxpayers.

We have repeatedly expressed the importance of maintaining and protecting the rural quality of life and the rural character of the Cline Butte area.

RURAL LANDS: Rural lands are those which are outside the urban growth boundary and are: (a) non-urban agricultural, forest or open space lands, or, (b) other lands suitable for SPARSE SETTLEMENT, small farms or acreage homesites with no, or hardly any, public services, and which are NOT SUITABLE, NOT NECESSARY, OR NOT INTENDED FOR URBAN USE.

The proposed expansion of Eagle Crest plans to generate a population density of a small city in the rural lands, bringing with it all the consequences of city dwelling - traffic, crime, transient populations, conflicts, water and septic usage equivalent to that of a city, impacts to wildlife and the environment, completely altering the rural character of the area by erecting over one thousand dwellings, as well as establishing commercial businesses and traffic, potential for fire hazards resulting from high density development, pollution to the air, land and water resources from traffic and density equalling a small city - without protection, nor benefit of public services, and erecting an urban, 30' concrete overpass totally out of character in a rural area and encouraging city traffic in a rural area.

THE RURAL LANDS OF CLINE BUTTE ARE SUITABLE FOR SPARSE SETTLEMENT, SMALL FARMS OR ACREAGE HOMESITES, OPEN SPACE LANDS. THE RURAL LANDS OF CLINE BUTTE ARE NOT SUITABLE, ARE NOT NECESSARY, AND ARE NOT INTENDED FOR URBAN USE.



CC: Scott Exo and Chris Cook - 1000 Friends of Oregon
Bill Boyer - Chair, ARLU De Co
Martha Pagel, Director Oregon Water Resources Dept.
Lorna Stickel - Chair, Oregon Water Resources Comm.
Anne Squier, Sr. Advisor - Natural Resources
Karen Russel - Water Watch
Dr. Zach Willie - Environmental Defense Fund for the
Confederated Tribes of Warm Springs
Jen Twining - Advisor to ARLU DeCo

Mailing List for Certificate

Scheduled Mailing Date:

Application: G-12905

Permit: G-11762

Certificate: *****

Permit/Certificate Holder:

CLINE BUTTE UTILITY CO. ✓
1230 GOLDEN PHEASANT DRIVE
REDMOND OR 97756

Copies Mailed	
by:	<u>Connie Vance</u> (STAFF)
on:	FEB 06 2009 (DATE)

Copies of Final Certificate to be sent to:

1. Watermaster District 11, Jeremy T. Giffin ✓
2. Data Center (include copy of map)
3. Water Availability
4. Vault
5. File ✓

Other persons to receive copies: (include map):

1. Thomas A. Walker, CWRE ✓



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

MAILED: FEB 06 2009

NOTICE

Reference: Permit G-11762 Application G-12905
 Permit G-13856 Application G-14857

Enclosed are proposed certificates of water rights and maps which illustrates the location of the right. The maps and proposed certificates represent the extent water was used within the terms of the permits based upon the claims of beneficial use.

If you do not agree with the proposed certificates, Oregon Administrative Rule 690-330-010 (2) allows the permittee or landowner 60 days from the mailing date of this notice to request the Department to reconsider the contents of the proposed certificate.

If you agree with the proposed certificates no response to this notice is required. Sometime after the 60 day period, the recorded certificates of water rights will be mailed to the permittee.

If you have any questions please contact Gerry Clark at 503-986-0811.

Sincerely,

Dwight French
Administrator
Water Rights Division

STATE OF OREGON
COUNTY OF DESCHUTES
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CLINE BUTTE UTILITY CO.
1230 GOLDEN PHEASANT DRIVE
REDMOND OR 97756

confirms the right to use the waters of THREE WELLS (WELLS 6, 7 AND 8) in the Deschutes Basin for QUASI-MUNICIPAL USE.

This right was perfected under Permit G-11762. The date of priority is MAY 4, 1992. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 3.0 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The wells are located as follows:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
8	15 S	12 E	WM	14	NW SW	1404 FEET NORTH & 281 FEET EAST FROM SW CORNER, SECTION 14
6	15 S	12 E	WM	15	SW SE	966 FEET NORTH & 1817 FEET WEST FROM SE CORNER, SECTION 15
7	15 S	12 E	WM	15	SW SE	930 FEET NORTH & 1819 FEET WEST FROM SE CORNER, SECTION 15

A description of the place of use to which this right is appurtenant is as follows:

Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	13	SW SW
15 S	12 E	WM	14	NE NW
15 S	12 E	WM	14	NW NW
15 S	12 E	WM	14	SW NW
15 S	12 E	WM	14	SE NW
15 S	12 E	WM	14	NE SW
15 S	12 E	WM	14	NW SW
15 S	12 E	WM	14	SW SW
15 S	12 E	WM	14	SE SW

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

This is an order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied. In addition, under ORS 537.260 any person with an application, permit or water right certificate subsequent in priority may jointly or severally contest the issuance of the certificate at any time before it has issued, and after the time has expired for the completion of the appropriation under the permit, or within three months after issuance of the certificate.

Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	14	NE SE
15 S	12 E	WM	14	NW SE
15 S	12 E	WM	14	SW SE
15 S	12 E	WM	14	SE SE
15 S	12 E	WM	15	SW NE
15 S	12 E	WM	15	SE NE
15 S	12 E	WM	15	NE SE
15 S	12 E	WM	15	NW SE
15 S	12 E	WM	15	SW SE
15 S	12 E	WM	15	SE SE
15 S	12 E	WM	22	NE NE
15 S	12 E	WM	22	NW NE
15 S	12 E	WM	22	SE NE
15 S	12 E	WM	23	NE NE
15 S	12 E	WM	23	NW NE
15 S	12 E	WM	23	SW NE
15 S	12 E	WM	23	SE NE
15 S	12 E	WM	23	NE NW
15 S	12 E	WM	23	NW NW
15 S	12 E	WM	23	SW NW
15 S	12 E	WM	23	SE NW
15 S	12 E	WM	23	NE SE
15 S	12 E	WM	23	NW SE
15 S	12 E	WM	24	NW NW
15 S	12 E	WM	24	SW NW
15 S	12 E	WM	24	NW SW
15 S	12 E	WM	24	SW SW

The wells shall be maintained 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 wells at all times.

Measurement, recording and reporting conditions:

- A. The water user 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 water user to report general water-use information, including the place and nature of use of water under the right.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The Department requires the water user to measure and report annual static water levels for each well on the right. Or, the water user can measure other wells in close proximity to the wells, if the Department's Groundwater Staff determines that the substitute observation wells will provide adequate data to assess the impacts from the wells. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The water user shall submit annual measurements. Annual measurements are required whether or not the well is used. Reference water-level measurements for determining water level declines on this right are as follows: Well #6: 518 feet;

Well #7: 518 feet; and Well #8: 312 feet. Or, the first annual measurement at the substitute observation wells will establish the reference levels against which future measurements will be compared. The Director may require the user to measure and report additional water levels each year if more data is needed to evaluate the aquifer system.

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

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

The water user shall discontinue use of, or reduce the rate of volume of withdrawal from the wells if annual water-level measurements decline of 10 or more feet.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alternation 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.

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

The Director may require water level or pump tests every ten years.

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

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

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

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Water may be applied to lands which are not specifically described above, provided the holder of this right complies with ORS 540.510(3).

PROPOSED

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

Issued _____

PROPOSED

Phillip C. Ward, Director
Water Resources Department

Water Rights Information Query Results

	Contacts	Application	Permit	Certificate	Claim	Decree	Transfers	Status
Select	OWNER: EAGLE CREST PARTNERS LTD. PO BOX 1215 REDMOND, OR 97756	G11387	G10530					NC
Select	OWNER: EAGLE CREST PARTNERS LTD. PO BOX 1215 REDMOND, OR 97756	G11824	G10957					NC
Select	OWNER: CLINE BUTTE UTILITY CO. 1140 NUTCRACKER REDMOND, OR 97756	G14857	G13856				▷ T10493 (Changes this right)	NC
Select	OWNER: EAGLE CREST INC. PO BOX 1215 REDMOND, OR 97756	G15789	G15855					NC
Select	APPLICANT: PREMIER PACIFIC VINEYARDS INC. PO BOX 3989 NAPA, CA 94558 APPLICANT: EAGLE CREST VINEYARD LLC. PO BOX 3989 NAPA, CA 94558 MEMBER: PACIFIC VINEYARD PARTNERS PO BOX 3989 NAPA, CA 94558 MANAGER: CHRIS MILLICH PO BOX 3989 NAPA, CA 94558 MANAGER: PREMIER PACIFIC VINEYARDS L P PO BOX 3989 NAPA, CA 94558	R86760						NC
Select	APPLICANT: PREMIER PACIFIC VINEYARDS INC. PO BOX 3989 NAPA, CA 94558 APPLICANT: EAGLE CREST VINEYARD LLC. PO BOX 3989 NAPA, CA 94558 MEMBER: PACIFIC VINEYARD PARTNERS PO BOX 3989 NAPA, CA 94558 MANAGER: CHRIS MILLICH PO BOX 3989 NAPA, CA 94558 MANAGER: PREMIER PACIFIC VINEYARDS L P PO BOX 3989 NAPA, CA 94558	S86761						NC
Select	LANDOWNER: EAGLE CREST INC. PO BOX 1215 REDMOND, OR 97756 TRUSTEE: OREGON WATER RESOURCES DEPARTMENT 725 SUMMER ST NE SUITE A SALEM, OR 97301-1271			81553		DESCHUTES RIVER, 1958	▷ CW13	NC

Help understanding and working with the Water Rights Information System

Download: [Point of diversion data](#), [Place of use data](#), [Stakeholder data](#)

Water Rights Information Query Results

Contacts		Application	Permit	Certificate	Claim	Degree	Transfers	Status
Select	OWNER: CLINE BUTTE UTILITY CO. 1140 NUTCRACKER RD REDMOND, OR 97756	G12905	G11762				▷ T10492 (Changes this right)	NC
Select	OWNER: CLINE BUTTE UTILITY CO. 1140 NUTCRACKER REDMOND, OR 97756	G14857	G13856				▷ T10493 (Changes this right)	NC

[Help understanding and working with the Water Rights Information System](#)

Download: [Point of diversion data](#), [Place of use data](#), [Stakeholder data](#)

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STATE OF OREGON

County of DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

This is to certify that I have examined APPLICATION G-11387 and do hereby grant the same SUBJECT TO EXISTING RIGHTS and the following limitations and conditions:

This permit is issued to Eagle Crest Partners Ltd. of PO Box 1215, Redmond, Oregon, 97756, phone 923-2453, for use of the waters from two wells, being 195 gallons per minute from Well 1 and 570 gpm from Well 2, for the PURPOSE of quasi-municipal

that the PRIORITY OF THE RIGHT dates from May 20, 1985

and is limited to the amount of water which can be applied to beneficial use and shall not exceed 765 gallons per minute

measured at the point of diversion from the wells, or its equivalent in case of rotation with other water users.

The well is to be LOCATED: Well 1 - 150 feet North and 1640 feet West from the Southeast Corner of Section 14, being within the SW 1/4 SE 1/4 of Section 14; Well 2 - 500 feet South and 550 feet West from the Northeast Corner of Section 23, being within the NE 1/4 NE 1/4 of Section 23, both in Township 15 South, Range 12 East, WM, in *

A description of the PLACE OF USE under the permit, and to which such right is appurtenant, is as follows:

* the County of Deschutes.

Township 15 South, Range 12 East, WM Section 14 SE 1/4 Quasi-municipal
 Section 13 SW 1/4 SW 1/4
 Section 23 NE 1/4
 NE 1/4 NW 1/4
 NE 1/4 SE 1/4
 Section 24 W 1/2 W 1/2

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

Actual construction work shall begin on or before November 1, 1986, and shall thereafter be prosecuted with reasonable diligence and be completed on or before October 1, 1987. Extended to October 1, 1992

Complete application of the water to the proposed use shall be made on or before October 1, 1988. Extended to October 1, 1992

Witness my hand this 1st day of November, 1985

/s/ WILLIAM H. YOUNG

WATER RESOURCES DIRECTOR

This permit is for the beneficial use of water. 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 that the land use you propose may not be allowed if it is not in keeping with the goals and the acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

APPLICATION G-11387

PERMIT

G10530

STATE OF OREGON
COUNTY OF DESCHUTES
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE CREST PARTNERS, LTD.
PO BOX 1215
REDMOND, OREGON 97756

503-923-2453

to use the waters of ONE WELL in the DESCHUTES RIVER BASIN for QUASI-MUNICIPAL USES.

This Permit is issued approving Application G-11824. The date of priority is JUNE 20, 1988. The use is limited to not more than 2.45 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The well is located as follows:

SW 1/4 SE 1/4, SECTION 14, T 15 S, R 12 E, W.M.; 120 FEET NORTH AND 700 FEET EAST FROM S 1/4 CORNER, SECTION 14.

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:

SW 1/4 SW 1/4 SECTION 13	SE 1/4 SECTION 14
NE 1/4 N 1/2 NW 1/4 NE 1/4 SE 1/4 SECTION 23	W 1/2 W 1/2 SECTION 24

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

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

Actual construction work shall begin on or before JANUARY 17, 1991, and shall be completed on or before October 1, 1991. Complete application of the water to the use shall be made on or before October 1, 1992.

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

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

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

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

Issued this date, JANUARY 17, 1990.

/s/ WILLIAM H. YOUNG

Water Resources Department
William H. Young
Director

Application G-11824 Water Resources Department
Basin 5 Volume 1 Deschutes River & Misc. Wells
G-11824 SB

PERMIT G-10957
District 11

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(541) 504-2305

(541) 504-2307 (Fax)

1230 Golden Pheasant Drive,
Redmond, OR 97756

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RECEIVED

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)**

PHASE I WTR
PHASE II WTR

Month	Well #2 <i>Desc 3614</i>	Well #3 <i>Desc 3578</i>	Well #6 <i>Desc 1198</i>	Well #7 <i>Desc 1083</i>	Well #8 <i>Desc 3581</i>
- TOTAL GALLONS -					
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



STATE OF OREGON
COUNTY OF DESCHUTES
CERTIFICATE OF WATER RIGHT

THIS CERTIFICATE ISSUED TO

CLINE BUTTE UTILITY CO.
1230 GOLDEN PHEASANT DRIVE
REDMOND OR 97756

confirms the right to use the waters of THREE WELLS (WELLS 6, 7 AND 8) in the Deschutes Basin for QUASI-MUNICIPAL USE.

This right was perfected under Permit G-11762. The date of priority is MAY 4, 1992. The amount of water to which this right is entitled is limited to an amount actually used beneficially, and shall not exceed 3.0 CUBIC FEET PER SECOND or its equivalent in case of rotation, measured at the well.

The wells are located as follows:

Well	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
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6	15 S	12 E	WM	15	SW SE	966 FEET NORTH & 1817 FEET WEST FROM SE CORNER, SECTION 15
7	15 S	12 E	WM	15	SW SE	930 FEET NORTH & 1819 FEET WEST FROM SE CORNER, SECTION 15

A description of the place of use to which this right is appurtenant is as follows:

Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	13	SW SW
15 S	12 E	WM	14	NE NW
15 S	12 E	WM	14	NW NW
15 S	12 E	WM	14	SW NW
15 S	12 E	WM	14	SE NW
15 S	12 E	WM	14	NE SW
15 S	12 E	WM	14	NW SW
15 S	12 E	WM	14	SW SW
15 S	12 E	WM	14	SE SW

NOTICE OF RIGHT TO PETITION FOR RECONSIDERATION OR JUDICIAL REVIEW

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Twp	Rng	Mer	Sec	Q-Q
15 S	12 E	WM	14	NE SE
15 S	12 E	WM	14	NW SE
15 S	12 E	WM	14	SW SE
15 S	12 E	WM	14	SE SE
15 S	12 E	WM	15	SW NE
15 S	12 E	WM	15	SE NE
15 S	12 E	WM	15	NE SE
15 S	12 E	WM	15	NW SE
15 S	12 E	WM	15	SW SE
15 S	12 E	WM	15	SE SE
15 S	12 E	WM	22	NE NE
15 S	12 E	WM	22	NW NE
15 S	12 E	WM	22	SE NE
15 S	12 E	WM	23	NE NE
15 S	12 E	WM	23	NW NE
15 S	12 E	WM	23	SW NE
15 S	12 E	WM	23	SE NE
15 S	12 E	WM	23	NE NW
15 S	12 E	WM	23	NW NW
15 S	12 E	WM	23	SW NW
15 S	12 E	WM	23	SE NW
15 S	12 E	WM	23	NE SE
15 S	12 E	WM	23	NW SE
15 S	12 E	WM	24	NW NW
15 S	12 E	WM	24	SW NW
15 S	12 E	WM	24	NW SW
15 S	12 E	WM	24	SW SW

The wells shall be maintained 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 wells at all times.

Measurement, recording and reporting conditions:

- A. The water user 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 water user to report general water-use information, including the place and nature of use of water under the right.
- B. The water user shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The Department requires the water user to measure and report annual static water levels for each well on the right. Or the water user can measure other wells in close proximity to the wells, if the Department's Groundwater Staff determines that the substitute observation wells will provide adequate data to assess the impacts from the wells. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The water user shall submit annual measurements. Annual measurements are required whether or not the well is used. Reference water-level measurements for determining water level declines on this right are as follows: Well #6: 518 feet;

Well #7: 518 feet; and Well #8: 312 feet. Or, the first annual measurement at the substitute observation wells will establish the reference levels against which future measurements will be compared. The Director may require the user to measure and report additional water levels each year if more data is needed to evaluate the aquifer system.

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

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

The water user shall discontinue use of, or reduce the rate of volume of withdrawal from the wells if annual water-level measurements decline of 10 or more feet.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the water user's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit.

In the event of a request for a change in point of appropriation, an additional point of appropriation or alternation 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.

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

The Director may require water level or pump tests every ten years.

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

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

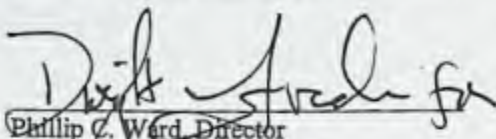
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The right to the use of the water for the above purpose is restricted to beneficial use on the lands or place of use described.

Water may be applied to lands which are not specifically described above, provided the holder of this right complies with ORS 540.510(3).

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

Issued MAY 08 2009


Phillip C. Ward, Director
Water Resources Department



Oregon

Theodore R. Kulongoski, Governor

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

Date Mailed: May 8, 2009

NOTICE OF CERTIFICATE ISSUANCE

Attached are certificates that confirm water rights established under the terms of permits issued by this Department. The water rights are now appurtenant to the specific place where the use was established as described by the certificates. The water rights are limited to a specific amount of water, but not more than can be beneficially used for the purposes stated within the certificates.

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within **60 days of the mailing date stated above** as specified by ORS 183.484(2).

This statement of judicial review rights is required under ORS 536.075; it does not alter or add to existing review rights or create review rights that are not otherwise provided by law.

Under ORS 537.260 and 537.270, a water right certificate may be contested before the Water Resources Department within three (3) months of the date it is issued. If a certificate is contested, the qualifying contestant shall be offered an administrative hearing.

Oregon law does not allow the Director to reissue a certificate because of a change in the ownership of the appurtenant place of use. The water must be controlled and not wasted. To change the location of the point of diversion, the character of use, or the location of use requires the advance approval of the Water Resources Director.

If any portion of this water right is not used for five or more consecutive years, that portion of the right may be subject to forfeiture according to ORS 540.610. Land enrolled in a Federal Reserve Program is not subject to forfeiture during the period of enrollment. Other exceptions to forfeiture are explained in ORS 540.610.

If you have any questions please contact Gerry Clark at 503-986-0811



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department
North Mall Office Building
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Salem, OR 97301-1271
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If you have any questions please contact Gerry Clark at 503-986-0811

Mailing List for Certificate

Scheduled Mailing Date:

Application: G-12905

Permit: G-11762

Certificate: 85471

Permit/Certificate Holder:

CLINE BUTTE UTILITY CO. ✓
1230 GOLDEN PHEASANT DRIVE
REDMOND OR 97756

Copies Mailed
by: <u>Connie Davis</u> (STAFF)
on: <u>MAY 08 2009</u> (DATE)

Copies of Final Certificate to be sent to:

1. Watermaster District 11, Jeremy T. Giffin ✓
2. Data Center (include copy of map) ✓
3. Water Availability ✓
4. Vault ✓
5. File ✓

Other persons to receive copies: (include map):

1. Thomas A. Walker, CWRE ✓

STATE OF OREGON
WATER WELL REPORT 103
(as required by ORS 537.765)

Page 1 of 2

(START CARD) # 24257

(1) OWNER: WATER RESOURCES DEPT
SALEM, OREGON Well Number _____
Name Basic 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:

Casing:	Diameter			Gauge	Steel	Plastic	Welded	Threaded
	From	To	To					
	13	0	50		☐	☐	☐	☐
	10	50	100	.250	☒	☐	☒	☐
	8	100	300		☐	☐	☐	☐
Liner:	0	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 SE 1/4 NE 1/4
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Cline Falls Way

(10) STATIC WATER LEVEL:

528 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 600

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	165	
Lava red with white pumice	165	203	
Multi-colored lava brown red	203		
gray		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	451	
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 _____
Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed [Signature] WWC Number _____
Date _____

(START CARD) # 34267

Well Number.

☐ New Well ☐ Deepen ☐ Recondition ☐ Abandon

☐ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other _____

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

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

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 _____

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of shoe(s)

☐ Perforations Method _____

☐ Screens Type _____ Material _____

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

☐ 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 ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____
Depth of strata: _____

County _____ Latitude _____ Longitude _____
Township _____ N or S. Range _____ E or W. WM.
Section _____ $\frac{1}{4}$ _____ $\frac{1}{4}$
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) _____

_____ ft. below land surface. Date _____

Artesian pressure _____ lb. per square inch. Date _____

Depth at which water was first found

From	To	Estimated Flow Rate	SWL

Ground elevation _____

[illegible]

Date started 9-16-91 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 _____
Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed [Signature] WWC Number _____
Date _____

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

(START CARD) # 36697

(1) OWNER:

Name Bayle Ridge Development Corporation Well Number PM #1
Address P.O. Box 1215
City Redmond State OR Zip 97756

(2) TYPE OF WORK:

☒ New Well ☐ Deepen ☐ Recondition ☐ Abandon

(3) DRILL METHOD

☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other

(4) PROPOSED USE:

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

(5) BORE HOLE CONSTRUCTION:

Special Construction approval Yes ☐ No ☒ Depth of Completed Well 800 ft.
Explosives used ☐ Yes ☐ No ☐ Type _____ Amount _____

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

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:	30"	+1	47	.250	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:	14"	+2	800	.375	☒	☐	☒	☐
					☐	☐	☐	☐

Final location of sheets: _____

(7) PERFORATIONS/SCREENS:

☐ Perforations Method Factory perforated
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
510	790	2/32	8000	14"		☒	☒
						☐	☐
						☐	☐
						☐	☐
						☐	☐

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

☐ Pump ☐ Bailer ☒ Air ☐ Flowing ☐ Artesian

Yield gal/min _____ Drawdown _____ Drill stem at _____ Time _____

140 (est.) _____ 750 _____ 1 hr.

Temperature of water 67.0 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 N or S, Range 12 E E or W, WM.
Section 15 SW $\frac{1}{4}$ SE $\frac{1}{4}$
Tax Lot 1500 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) N/A

(10) STATIC WATER LEVEL:

510 ft. below land surface. Date 1/20/92
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found 340

From	To	Estimated Flow Rate	SWL
340	800	800	510

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
Sand & cobbles	1	2	
Broken lava red and brown	4	30	
Basalt gray hard	40	55	
Lava cinders red	55	60	
Lava brown	60	65	
Basalt gray and brown hard	65	75	
Basalt softer	75	92	
Lava red and brown broken soft	92	111	
Basalt gray hard	111	157	
Basalt gray softer w/ red cinder	157	162	
Lava red	162	165	
Lava brown w/sandstone	165	290	
Lava dark brown w/pumice	290	330	
Andacite brown hard	330	375	
Andacite gray	375	400	
Andacite Gray & brown hard	400	450	
Andacite gray softer	450	502	
Andacite hard brown	502	524	
Andacite light brown softer	524	560	
Rock black and res	560	600	
Andacite brown hard	600	612	
Red cinder	600	612	
Andacite brown hard	612	612	

Date started 1/20/92 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 best knowledge and belief.

Signed [Signature] WWC Number 1358
Date 3/4/92

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed [Signature] WWC Number 721
Date 3/4/92

(START CARD) # 36697

(9) LOCATION OF WELL by legal description:

☐ New Well ☐ Deepen ☐ Recondition ☐ Abandon

☐ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other _____

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

Special Construction approval Yes No Depth of Completed Well _____ ft.

Explosives used ☐ Yes ☐ No ☐ Type _____ Amount _____

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 _____

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:					☐	☐	☐	☐
					☐	☐	☐	☐

Final location of sheets:1

☐ Perforations Method _____

☐ Screens Type _____ Material _____

[illegible]☐ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
---------------	----------	---------------	------

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:

(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	SWL

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
Andacite light gray w/pumice	620	645	
Andacite brown fractured	645	655	
Andacite brown hard	655	670	
Andacite gray w/brown med.	670	691	
Andacite gray/white	691	710	
Andacite brown w/pumice interbedded	710	733	
Andacite brown & red fractured	733	740	
Andacite brown very hard	740	761	
Pumice white	761	776	
Andacite grey and black	776	800	

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 constructor standards. Materials used and information reported above are true to my best knowledge and belief.

Signed Bernard K. Hilde WWC Number 1358
Date 2/4/62

(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.

belief. 1/11/02 WWC Number 721
Signed [Signature] Date 2/6/02

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

WELL #6

(START CARD) 36697

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

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

(3) DRILL METHOD
☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other

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

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

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

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: 18	+1	47	.250	☒	☐	☒	☐
Liner: 14"	+2	800	.375	☒	☐	☒	☐

Final location of shaft 800'

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

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
510	790	2X3	8000	14"		☒	☒

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailor ☒ Air ☐ Artesian
Yield gal/min _____ Drawdown _____ Drill stem at _____ Time _____
800 (est.) _____ 750 _____ 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 42° 12' N Longitude 120° 15' W
Township 15 S Range 12 E
Section 15 Block 6E
Lot 1500 Subdivision _____
Street Address of Well (or nearest address) N/A

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

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

From	To	Estimated Flow Rate	SWI
540	800	800	510

(12) WELL LOG: Ground elevation _____

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

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

(unbonded) Water Well Constructor Certification:
I certify that the work 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 best knowledge and belief.
Signed [Signature] WWC Number 1358 Date 3/4/92

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

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

001 J3W 801 2201 J0HT

(START CARD)

36697

(1) OWNER:

Name Eagle Ridge Development Corporation
Address Page 2
City _____ State _____ Zip _____

Well Number PW #1

(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	
Diameter	From To	Material	From To	sacks or pounds	

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 sheet(s) _____

(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 ☐ 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 ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____
Depth of strata: _____

(9) LOCATION OF WELL by legal description:

County Deschutes Latitude 43° 12' N Longitude 120° 11' W
Township 15 S N or S Range 12 E E or W, WM.
Section 15 SW 1/4 SE 1/4
Tax Lot 1500 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) N/A

(10) STATIC WATER LEVEL:

_____ ft. below land surface. Date _____
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

From	To	Estimated Flow Rate	SWI

(12) WELL LOG:

Material	From	To	SWI
Andacite light gray w/pumice	620	645	
Andacite brown fractured	645	655	
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	800	

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APR 03 2007

WATER RESOURCES DEPT
SALEM, OREGON

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 construct standards. Materials used and information reported above are true to my b knowledge and belief.

Signed [Signature] WWC Number 1358
Date 3/4/92

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonm 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 belief.

Signed [Signature] WWC Number 72
Date 3/4/92

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

Page 1 of 2

(START CARD) # 4267

Well # 7

(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	15	15
10	50	100	Cement	15	100	60
8	100	200				

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☒ Other Bentonite dry in top 10'

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	50	100		☒	☐	☒	☐
	8	100	200		☐	☐	☐	☐
Liner:	8	100	200		☐	☐	☐	☐

Final location of shoe(s) 200

(7) PERFORATIONS/SCREENS:

☐ Perforations Method Air
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
0	200	1x1/4	400	6		☐	☒
200	200	1x1/4	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 N or S. Range 12 E or W. WM.
Section 22 1/4 1/4 1/4
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 10-11-91
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found 600

From	To	Estimated Flow Rate	SWL
600	615		
720	735		

(12) WELL LOG:

Ground elevation _____

Material	From	To	SWL
Dirt	0	2	
Broken rock	2	13	
Sand black coarse dry	13	23	
Broken rock red & gray	23	36	
Rock harder	36	42	
Sandstone soft brown	42	48	
Lava porous gray & brown	48	55	
Broken lava red & gray	55	63	
Lava harder red & gray	63	132	
Basalt gray hard	132	160	
Lava red medium	160	165	
Lava red with white sand	165	203	
Multi-colored lava brown red	203		
gray		310	
broken lava red brown	310	375	
Rock medium brown	375	392	
Rock gray with some sand	392	400	
Rock gray and white	400	435	
Rock brown gray white	435	442	
Basalt gray hard	442	461	
Basalt gray hard			
Basalt gray hard			

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. Material used and information reported above are true to my best knowledge and belief.

Signed _____ WWC Number _____
Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed _____ WWC Number _____
Date _____

(as required by ORS 537.765)

(START CARD) # 34257

9809C 10M

Signed [Signature] Date 11/1/00 WWC Number 1000000000

STATE OF OREGON WATER RESOURCES DEPT.
WATER WELL REPORT SALEM, OREGON
(as required by ORS 537.705)

JUL - 7 1998

(START CARD) # 89252

1) OWNER:
Eagle Crest

Address po 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 600 ft.

Explosives used Yes ☐ No ☒ Type

Amount

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	
23"	0	60	cement	0	24	44
19"	60	65	bent	24	40	48
17"	65	600	cement	40	60	282

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

☐ Other chips poured

Backfill placed from ft. to ft. Material

Gravel placed from ft. to ft. Size of gravel

6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	18	+15	60	.375	☒	☐	☒	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
					☐	☐	☐	☐
Liner:	14	-5	600	.375	☒	☐	☒	☐
					☐	☐	☐	☐

Final location of sheets

7) PERFORATIONS/SCREENS:

☒ Perforations Method factory - Swift

☐ Screens Type Material

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
390	600	1/8x3	8000	14"		☐	☒
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐

8) WELL TESTS: Minimum testing time is 1 hour

☐ Pump ☐ Bailer ☒ Air ☐ Flowing
☐ Artesian

Yield gal/min Drawdown ft. Discharge gal/min

LOCATION OF WELL by legal description:

County ~~Deschutes~~ Latitude Longitude

Township 15S N or S. Range 12E E or W.

Section 14 NW 1/4 SW 1/4

Tax Lot 1542-1546 Lot Block Subdivision

Street Address of Well (or nearest address)

cline falls hwy

(10) STATIC WATER LEVEL:

312 ft. below land surface.

Date 4-22

Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:

Depth at which water was first found 350'

From	To	Estimated Flow Rate
350	600	

(12) WELL LOG:

Ground elevation

Material	From	To
soil	0	5
basalt grey fractured	5	8
wthrd rock soft grey	8	13
grey harder	13	32
lava red hard	32	38
lava red hard	38	40
basalt grey very hard	40	100
basalt grey & brown hard	127	141
lava grey & red med	127	141
lava brn hard	141	155
basalt fractures bent red	155	174
andacite basalt grey hard	174	177
cinders red tan gray	177	
with pumice		210
red cinder with grey liner	210	
white pumice		220
brown sandstone	220	260
brown sandstone	260	280
conglomerate brown&black	280	290
conglomerate brown bounded	280	290
conglomerate moneanquan	480	551
ansacite white hard	551	560
plumice white	560	567

Date started 3-19-98 Completed 4-22-98

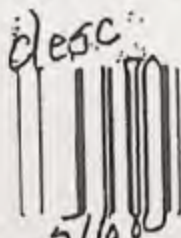
(unbonded) Water Well Constructor Certification:

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

STATE OF OREGON

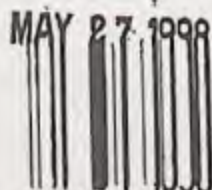


WATER WELL REPORT

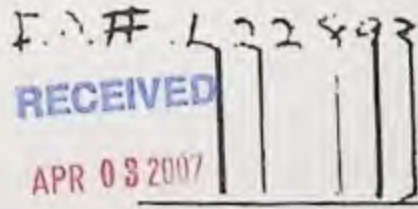


516

5/10/2



MAY 27 1998



F.D.H. L22893

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APR 03 2007

WATER RESOURCES DEPT
SALEM, OREGON

ph - 1. #2
Desel 083
DOJ LIEW' NOT SWOITOURTAN
Application No. 6-1290
(START CARD) 1 14267

(9) LOCATION OF WELL by legal description:

County	Latitude	Longitude
Township	15S	12E
Range	Nor 8	W. WM.
Section	22	SE
Tax Lot		

City (Street Address of Well (or nearest address)) Chicago, Illinois

(10) STATIC WATER LEVEL: _____ ft. below land surface. Date: 10/11/96

(11) WATER BEARING ZONES: for the
Depth at which water was first found 608 ft (A) 1015 ft

From	To	Estimated Flow Rate	SWL
608	615		NA
720	735		NA
			NA
			NA
			NA

(12) WELL LOG: see local character Ground elevation _____

Material	From	To	SWL
dirt	0	12	
broken rock	2	12	
sand black coarse dry	12	25	
broken rock red & grey	25	36	
Rock harder	36	42	
sandstone soft brown	42	48	
lava porous grey & brown	48	55	
broken lava red & grey	55	83	
lava harder red & grey	83	132	
basalt grey hard	132	160	
lava red med	160	185	
lava red w/white pumice	185	203	
multi colored lava brn/red/gr	203	210	
broken lava red/brown	210	275	
rock brn med	275	392	
rock grey w/some pumice	392	400	
rock grey and white	400	435	
rock brn/grey/white	435	442	
basalt grey hard	442	461	
andacite grey/brn hard	461	608	
cinders or pumice	608	615	
quartzite/andacite withered	615	720	
brown andacite weathered	720	735	

Date started: 9/16/94 Initial: 9/16/94 Completed: 10/11/94

(unbonded) Water Well Constructor Certification:
 I hereby certify that the work I performed on the construction, alteration, abandonment of this well is in compliance with Oregon well construct standards. Materials used and information reported above are true to my knowledge and belief.
 Signed James R. [Signature] WWC Number 192479
 Date 10/24/19

(bonded) Water Well Constructor Certification: I, John A. Smith,
do hereby accept responsibility for the construction, alteration, or abandonment
work performed on this well during the construction dates reported above.
The work performed during this time is in compliance with Oregon well
construction standards. This report is true to the best of my knowledge and
belief.

Signed [Signature] WWC Number 723
Date 10/24/15

30		800	
100	100	100	100
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 water _____			

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

DO NOT WRITE IN THESE SPACES

Application No. 612905

Permit No. 36697
(START CARD)

(1) OWNER:

Name Eagle Ridge Development Corporation
Address P.O. Box 1215
City Redmond State OR Zip 97756

Well Number: PW #1

(2) TYPE OF WORK:

☒ New Well ☐ Deepen ☐ Recondition ☐ Abandon

(3) DRILL METHOD

☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other

(4) PROPOSED USE:

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

(5) BORE HOLE CONSTRUCTION:

Special Construction approval Yes ☐ No ☒ Depth of Completed Well 800 ft.
Explosives used ☐ ☒ Type _____ Amount _____

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	
17	47	800	_____	_____	_____	_____

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	18	+1	47	.250	☒	☐	☒	☐
Liner	14"	+2	800	.375	☒	☐	☒	☐

Final location of sheets: 800'

(7) PERFORATIONS/SCREENS:

☒ Perforations Method Factory perforated
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
510	790	1/2 X 3/8	8000	14"	_____	☒	☒

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

☐ Pump ☐ Bailor ☒ Air ☐ Flowing
Yield gal/min _____ Drawdown _____ Drill stem at _____ Time _____
800 (est.) _____ 750 _____ 1 hr _____

Temperature of water 62° 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 42° 12' N Longitude 120° 12' W
Township 15 S Nor S. Range 12 E (E or W, WM)
Section 15 (SW or SE, NW or SW)
Tax Lot 1500 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) N/A

(10) STATIC WATER LEVEL:

518 ft. below land surface: Date 2/20/92
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

From	To	Estimated Flow Rate	SWL
540	800	800	518

(12) WELL LOG:

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

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

(unbonded) Water Well Constructor Certification:

I certify that the work 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 3/4/92

(bonded) Water Well Constructor Certification:

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

C.T. Thomas
3201 SW 73rd Street
Redmond, Oregon 97756-9232

WATER RESOURCES DEPARTMENT
STATE OF OREGON
REFERENCE FILE G-12905

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JUN 21 1993

WATER RESOURCES DEPT.
SALEM, OREGON

Eagle Ridge Development Corp.

In the public interest I object to you issuing a permit for water use as applied by Eagle Ridge Development Corp. G-12905.

Reason: A ground water resource study has not been made for the Deschutes Basin.

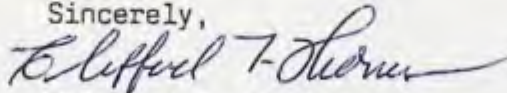
The Permit should not be issued until this is accomplished.

The Amount of water Eagle Ridge Development Corp. intends to use may greatly lower the aquifer in this area, affecting many people who use their existing wells for domestic purposes.

In addition, the conceptual water plan (enclosed copy) as proposed by Eagle Crest to pump water from existing wells located in Phase I should not be allowed to be implemented. The original permits for existing Wells #2 and #3 were not issued for this purpose and should not be allowed. Attached photo shows the installation of two 10 or 12" pipes and possibly a pump to be used to transfer water across Cline Falls Road. It is not known if this has been accomplished. No proof is given that it will not lower the Aquifer and the effect on the people using the water in the area next to Eagle Crest.

Kindly favor me with a letter with your intentions, and your cooperation is greatly appreciated.

Sincerely,



Clifford T. Thomas

3201 SW 73th

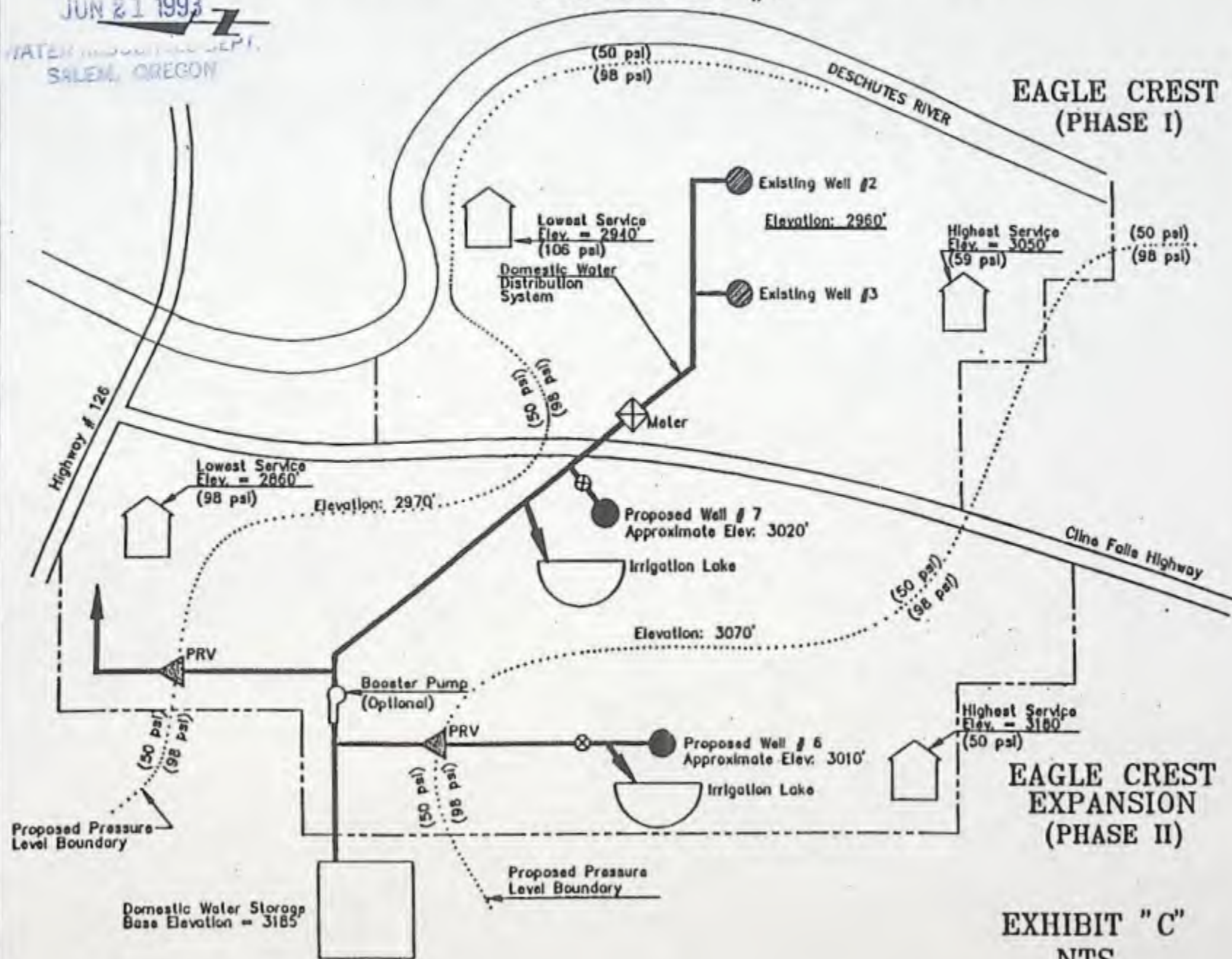
REDMOND

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JUN 21 1993

WATER RESOURCES DEPT.
SALEM, OREGON

EAGLE CREST CONCEPTUAL WATER PLAN ALTERNATIVE #1



EAGLE CREST
(PHASE I)

EAGLE CREST
EXPANSION
(PHASE II)

EXHIBIT "C"
NTS

EAGLE CREST CONCEPTUAL WATER PLAN ALTERNATIVE #2

JUN 21 1993

WATER RESOURCES DEPT.
ALEM, OREGON

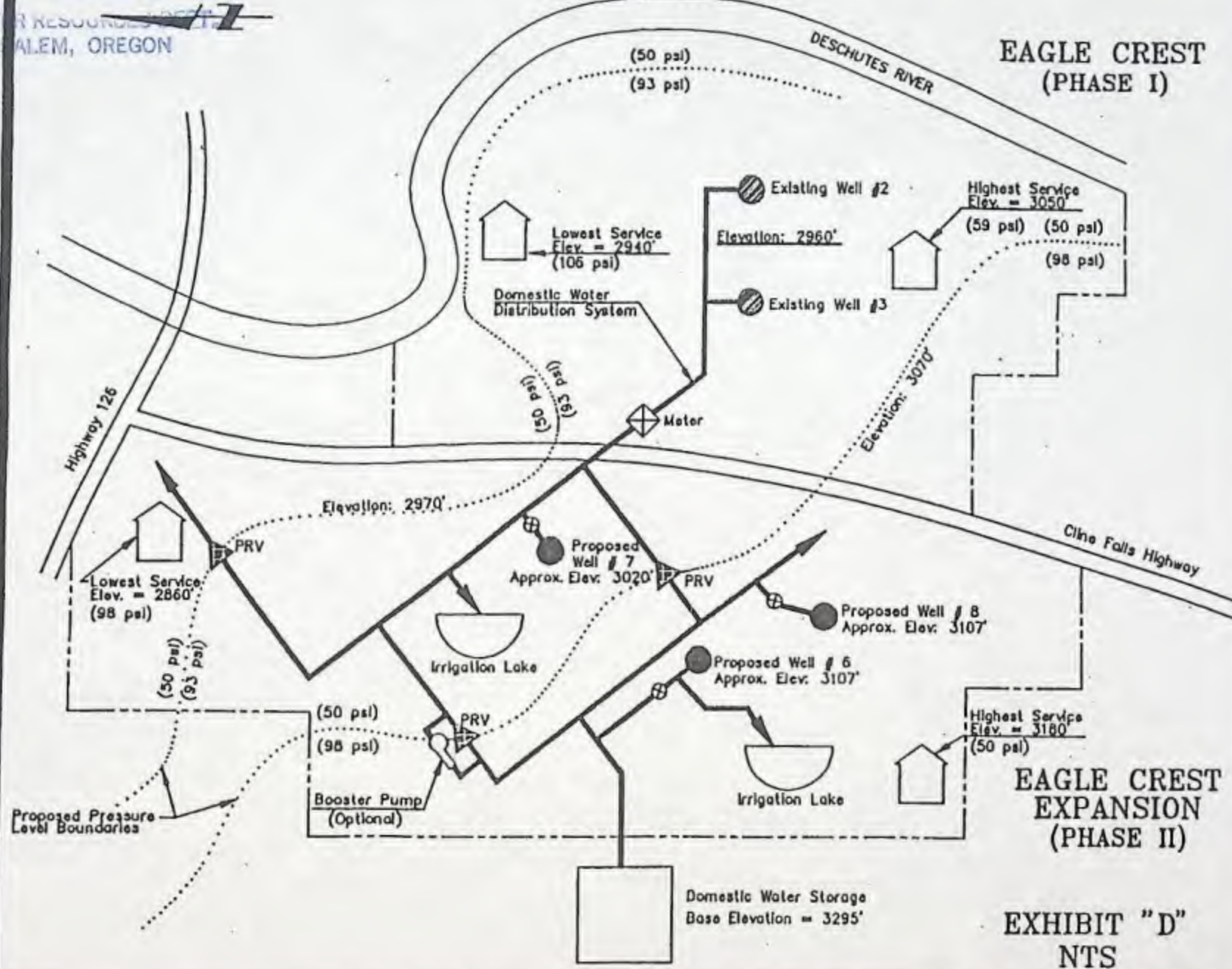


EXHIBIT "D"
NTS

STATE OF OREGON WATER RESOURCES DEPT.
WATER WELL REPORT SALEM, OREGON
(as required by ORS 537.703)

RECEIVED

T.D.# L22893

JUL - 7 1998

(START CARD) # 89252

(1) OWNER: Well Number: 8
Name Eagle Crest
Address po 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 600 ft.
Explosives used ☐ ☒ Type Amount

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	
23"	0	60	cement	0	24	44
19"	60	65	bent	24	40	48
17"	65	600	cement	40	60	282

How was seal placed: Method ☐ A ☐ B ☒ C ☐ D ☐ E
☐ Other chips poured

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

(6) CASING/LINER:

	Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing:	18	+15	60	.375	☒	☐	☒	☐
Liner:	14	-5	600	.375	☐	☐	☒	☐

Final location of sheets:

(7) PERFORATIONS/SCREENS:
☒ Perforations Method factory - swift
☐ Screens Type Material

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
390	600	1/8x3	8000	14"		☐	☒

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

LOCATION OF WELL by legal description:

County: Polk Latitude Longitude
Township: 15S Nor S. Range: 12E E or W.
Section: 14 NW 1/4 SW 1/4
Tax Lot: 1542-1546 Block Subdivision
Street Address of Well (or nearest address):
cline falls hwy

(10) STATIC WATER LEVEL:
312 ft. below land surface. Date 4-22
Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:

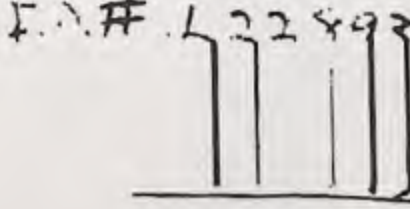
From	To	Estimated Flow Rate
350	600	

(12) WELL LOG:

Material	From	To
soil	0	5
basalt grey fractured	5	8
withrd rock soft grey	8	13
grey harder	13	32
lava red hard	32	38
lava red hard	38	40
basalt grey very hard	40	100
basalt grey & brown hard	127	141
lava grey & red med	127	141
lava brn hard	141	155
basalt fractures bent red	155	174
andacite basalt grey hard	174	177
cinders red tan grey	177	210
with pumice		210
red cinder with grey liner	210	
white pumice		220
brown sandstone	220	260
brown sandstone	260	280
conglomerate brown&black	280	290
conglomerate brown bounded	280	290
conglomerate moneangular	480	551
ansacite white hard	551	560
plumice white	560	567

Date started 3-19-98 Completed 4-22-98

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



WATER WELL REPORT

(as required by ORS 837.765)

5168

pg 2 of 2

WATER RESOURCES DEPT

(START CARD) # 89252

(1) OWNER:

Name Eagle Crest
Address PO Box 1215
City Redmond State OR Zip 97756

Well Number: 8

SALM, DEPARTMENT OF WELL by legal description:

County Dutchess Latitude _____ Longitude _____
Township 15S N or S, Range 12E E or W,
Section 14 NW 1/4 SW 1/4
Tax Lot 15-18-154 Block _____ Subdivision _____
Street Address of Well (or nearest address) _____
Cline Falls Hwy

(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:					☐	☐	☐	☐
					☐	☐	☐	☐

(Initial location of sheets)

(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 ☐ 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 ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____

(10) STATIC WATER LEVEL:

ft. below land surface. Date _____
Artesian pressure _____ lb. per square inch. Date _____

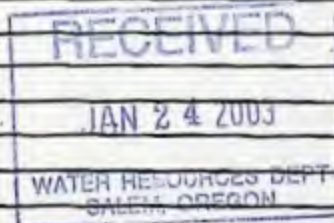
(11) WATER BEARING ZONES:

Depth at which water was first found		Estimated Flow Rate
From	To	

(12) WELL LOG:

Ground elevation _____

Material	From	To
basalt grey and brown hard	567	580
basalt soft	580	590
basalt smooth hard	590	600



Date started _____ Completed _____

(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 knowledge and belief.

WWC Number _____
Signed _____ Date _____

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. This work performed during this time is in compliance with Oregon construction standards. This report is true to the best of my knowledge and belief.

WWC Number _____

~~Steve Brown~~
File G-12905

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

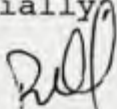
Dear John:

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	=	<u>\$3,000,000</u> = \$24,390/acre 123 acres
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.

**BEFORE THE WATER RESOURCES DEPARTMENT
OF THE
STATE OF OREGON**

In the Matter of Permit Amendment	)	FINAL ORDER WITHDRAWING
Application T-10492, Deschutes County	)	AN APPLICATION FOR A WATER
	)	RIGHT PERMIT AMENDMENT

Authority

ORS 537.211 establishes the process in which a water right permit holder may submit a request to change the point of appropriation and/or place of use authorized under an existing water right permit.

Applicant

Cline Butte Utility Company
1230 Golden Pheasant Drive
Redmond, OR 97756

Agent

W & H Pacific
Attn: Niall Boggs
920 SW Emkay Drive, Suite C-100
Bend, OR 97702

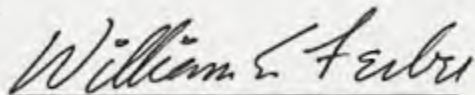
Findings of Fact

1. Permit Amendment Application T-10492, in the name of Cline Butte Utility Company, was filed on November 29, 2007.
2. On March 3, 2010, Niall Boggs of W & H Pacific submitted a written request on behalf of the applicant asking that Permit Amendment Application T-10492 be withdrawn.

Now, therefore, it is ORDERED:

Permit Amendment Application T-10492, in the name of Cline Butte Utility Company, is withdrawn and of no further force or effect. Any unearned fees will be refunded.

Dated at Salem, Oregon this 5th day of March, 2010.



for Phillip C. Ward, Director

Mailing date: MAR 30 2010

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

**EAGLE CREST RESORT
SUMMARY OF GROUNDWATER CONSUMPTION
FOR CALENDAR YEAR 2000**
OWRD Permit No. G-11762 (File No.: G-12905)

8034?
PHASE II
WATER

PHASE I
WATER

POTENTIAL
PERMIT G11762 +
G11313

~~3634800~~
TOTAL GALLONS

Desc 3614 Desc 3578 Desc 1198 Desc. 1083 Desc 3581

Month	Well #2	Well #3	*Well #6	*Well #7	*Well #8
January	3,492,000	0	829,000	0	0
February	3,268,800	14,400	873,000	0	0
March	4,069,800	3,852,000	8,510,000	1,868,000	5,184,000
April	7,947,000	2,104,200	18,417,000	0	5,681,400
May	10,848,600	3,391,200	20,074,000	5,041,600	8,969,600
June	12,807,000	6,633,000	31,761,000	5,611,200	22,986,800
July	13,395,600	24,193,800	33,696,000	10,062,500	16,382,000
August	13,395,600	13,401,000	34,004,000	10,830,900	16,432,600
September	12,130,200	6,031,800	24,788,000	2,292,600	8,847,200
October	12,076,200	457,200	13,646,000	1,097,000	4,915,200
November	4,255,200	432,000	3,012,000	0	622,300
December	2,145,500	0	1,525,000	0	0
TOTALS:	99,831,500	60,510,600	191,135,000	36,803,800	90,021,100

*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.

G11762

APP G12905
Qm 1993

15 S 12E 15 SW 50
DOMESTIC WATER

G11313

APP G12429
1881 cm IR

15 S 12E 22 NE 15
15

816567.009/ec030701.doc

GOLF COURSE
WATER

RECEIVED

MAR 14 2001

WATER RESOURCES DEPT.
SALEM, OREGON

2001

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

app G-12905 (permit G-11762)

USER-ID

8034

2002



Facility  POD-ID 	36346 Well #1	36347 Well #2	36348 Well #3		
October - 2001	0	10,903,140	703,375		
November - 2001	0	3,750,230	110,885		
December - 2001	0	0	1,841,280		
January - 2002	0	1,545,000	594,000		RECEIVED
February - 2002	0	1,736,000	0		OCT 30 2002
March - 2002	0	992,000	5,514,900		WATER RESOURCES L SALEM, OREG
April - 2002	0	8,518,000	182,000		
May - 2002	0	11,623,620	7,749,080		
June - 2002	0	14,491,000	6,692,900		
July - 2002	0	19,569,000	9,199,700		
August - 2002	0	19,696,000	8,318,400		
September - 2002	0	16,933,000	3,899,400		
TOTAL *		109,756,990	44,805,920		

* 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: MASTER METER. If use is irrigation, total number acres irrigated _____

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

Signature

OPERATIONS MANAGER CLINE BUTTS UTILITY CO.

Title

OCT 24, 2002

Date

Ric Kuss

Name - Please Print

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



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

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



~~ALAN~~ VAN VLIET DIR. OF CONSTRUCTION USER-ID
~~EAGLE CREST MASTER ASSOC; EAGLE CREST PTNR~~ *Cline Butte*
~~PO BOX 1215~~ *1140 Nutcracker* *Utility Co.*
REDMOND OR 97756

8034 29088

POD-ID	FACILITY	CERT	PERMIT	APPL	PRIORITY	USE	L/S	TWP	RANGE	SEC	Q/Q	RATE	SOURCE	TRIBUTARY TO						
36346	WELL 1	0	G	11762	G	12905	5/4/1992	QM	L	15	S	12	E	14	SWNW	3	C	P	WELL 1	DESCHUTES R
36347	WELL 2	0	G	11762	G	12905	5/4/1992	QM	L	15	S	12	E	15	SWSE	3	C	A	WELL 2	DESCHUTES R
36348	WELL 3	0	G	11762	G	12905	5/4/1992	QM	L	15	S	12	E	15	SWSE	3	C	A	WELL 3	DESCHUTES R

USER-ID

8034

APPLICATION FOR EXTENSION OF TIME
for Quasi-Municipal and Municipal Water Use Permits

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Eagle Ridge Development Corporation Jerol Andres, President
NAME OF ENTITY NAME OF CONTACT

P.O. Box 1215 Redmond, OR 97756
ADDRESS CITY STATE ZIP PHONE

owner of record, or duly authorized agent, of Application No. G-12905, Permit No. G-11762,
do hereby request that the time in which to:

☒ complete the construction of diversion/appropriation works and/or purchase and installation of
the equipment necessary to the use of water, which time now expires on October 1, 1997,
be extended to October 1, 2012,

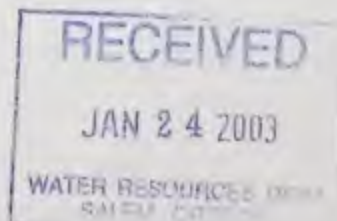
and/or the time in which to:

☒ 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, 2012.

NOTE: Permit extensions for Quasi-Municipal and Municipal permits are evaluated under OAR
Chapter 690, Division 315. Except under limited circumstances, upon issuance of an
order approving an extension, you will be required to submit within 3 years a Water
Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86.
Diversion of water beyond the maximum rate currently diverted under the permit shall
only be authorized upon approval of your WMCP. The rules may be viewed at:
"www.wrd.state.or.us/law/oar1999.shtml"

Attached are instructions to assist you in completing the information on the permit
extension application form. Oregon Water Law and Administrative Rules require this
information to be considered by the Water Resources Department when reviewing a
Quasi-Municipal or Municipal water use extension application. For each permit, a
separate extension application must be submitted. Items must be addressed or the
application may be returned. Please contact the Department with any
additional information or evidence for decision. Please use
additional sheets of paper as needed.

After reviewing the application form, if you have any questions,
you may contact the Department at (503) 854-7111 for assistance from the
Water Rights Division, permit extensions personnel.



APPLICATION FOR EXTENSION OF TIME

for Quasi-Municipal and Municipal Water Use Permits

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Eagle Ridge Development Corporation Jerol Andres, President
NAME OF ENTITY NAME OF CONTACT

P.O. Box 1215 Redmond, OR 97756
ADDRESS CITY STATE ZIP PHONE

owner of record, or duly authorized agent, of Application No. G-12905, Permit No. G-11762,
do hereby request that the time in which to:

☒ complete the construction of diversion/appropriation works and/or purchase and installation of
the equipment necessary to the use of water, which time now expires on October 1, 1997,
be extended to October 1, 2012,

and/or the time in which to:

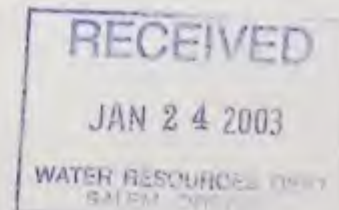
☒ accomplish beneficial use of water to the full extent under the terms of the permit, which time
now expires on October 1, 1998, be extended to October 1, 2012.

NOTE:

Permit extensions for Quasi-Municipal and Municipal permits are evaluated under OAR Chapter 690, Division 315. Except under limited circumstances, upon issuance of an order approving an extension, you will be required to submit within 3 years a Water Management and Conservation Plan (WMCP) under OAR Chapter 690, Division 86. Diversion of water beyond the maximum rate currently diverted under the permit shall only be authorized upon approval of your WMCP. The rules may be viewed at: "www.wrd.state.or.us/law/oar1999.shtml"

Attached are instructions to assist you in completing the information on the permit extension application form. Oregon Water Law and Administrative Rules require this information to be considered by the Water Resources Department when reviewing a Quasi-Municipal or Municipal water use permit extension application. For each permit, a separate extension application must be submitted. All items must be addressed or the application may be returned. Please feel free to provide the Department with any additional information or evidence that will aid us in making our decision. Please use additional sheets of paper as needed to fully respond to the questions.

After reviewing the application form and the instruction sheet, if you have any questions, you may contact the Department at (503) 378-3739, and request assistance from the Water Rights Division, permit extensions personnel.



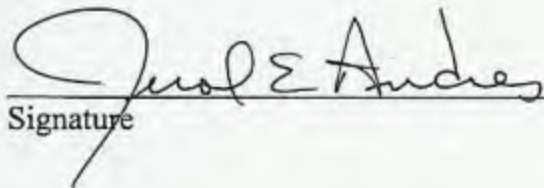
In order for the Department to evaluate your extension of time request for a Quasi-Municipal or Municipal water use permit, please provide the following:

1. The appropriate fee, as specified under ORS 536.050.
2. For Quasi-Municipal water use permits, evidence of the actions taken to begin actual construction on the project, if required under the applicable statute.
3. Evidence of actions taken to develop the right within the permitted time period and/or time period of the previous extension.
4. Evidence of compliance with conditions contained in the permit and any previous extension(s). If any of the conditions have not been satisfied, please explain the reason(s) why.
5. Evidence of the maximum rate of water diverted to date, if any, for Quasi-Municipal or Municipal purposes.
6. An estimate of the population served under this permit and a description of the methodology(ies) used to make this estimate.
7. A description of the financial expenditures made toward completion of the water development.
8. An estimate of the cost necessary to complete the water development.
9. A summary of any events that delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project that have significantly delayed completion of construction or perfection of the right.
10. An estimated demand projection and a description of the methodology(ies) used for the subject water right permit, considering the other water rights and contracts held by the municipal or quasi-municipal water use permit holder, and a date by which the water development is anticipated to be completed and water put to full beneficial use.

Extension requests for greater than 50 years must include documentation that the demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder.

11. A summary of the plan and schedule to complete construction and/or perfect the water right.
12. Justification for the time requested to complete the project and/or apply the water to full beneficial use.
13. Any other information you wish the Department to consider while evaluating the extension of time application.

I am the permittee, or have authorization from the permittee, to apply for an extension of time under this permit. I certify that the information I have provided in this application is true and correct to the best of my knowledge.

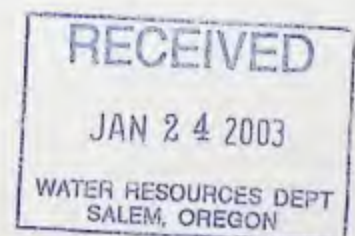

Signature

Date

MAIL COMPLETED APPLICATION and STATUTORY FEE (under ORS 536.050) TO:

WATER RIGHT PERMIT EXTENSIONS
WATER RESOURCES DEPARTMENT
158 - 12th STREET NE
SALEM, OREGON 97301-4172

revised: December 12, 2002



**APPLICATION FOR EXTENSION OF TIME
FOR QUASI-MUNICIPAL WATER USE
CLINE BUTTE UTILITY COMPANY
OREGON WATER RESOURCES DEPARTMENT PERMIT #G11762
OREGON WATER RESOURCES DEPARTMENT APPLICATION FILE #G12905
JANUARY 14, 2003**

Narrative:

Cline Butte Utility Company has provided the following information for the Oregon Water Resources Department to evaluate an extension of time request for quasi-municipal water use permit #G-11762. In the following paragraphs, the criteria for evaluation of an extension, as established by the Oregon Water Resources Department, are shown in bold text. The response and justification follow in standard text.

Permit G-11762 serves the Ridge at Eagle Crest (Eagle Crest II) through a water distribution system owned and operated by the Cline Butte Utility Company. The Cline Butte Utility Company is a subsidiary of the developer, Eagle Crest, Inc. the Eagle Crest destination resort consists of three major expansion areas. Regardless, this extension request is limited to permit G-11762 and Eagle Crest II.

I. I. The Appropriate fee, as specified under ORS 536.050.

A check in the amount of \$100.00 was submitted on September 3, 1997. The Oregon Water Resources Department (OWRD) web site confirms the appropriate fee remains at \$100.00. No further payment is necessary.

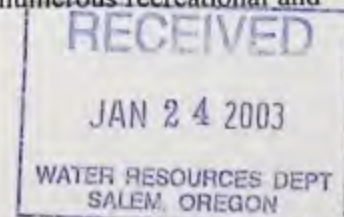
2. II. For Quasi-Municipal water use permits, evidence of the actions taken to begin actual construction on the project, if required under the applicable statute.

Permit G-11762 allows the development and perfection of water use from up to three wells. Construction of the initial well was initiated on September 18, 1991 and completed on October 11, 1991. Construction of a second well was initiated on January 20, 1992 and completed on February 20, 1992. Construction of the third well was initiated on March 19, 1998 and completed on April 22, 1998. Well logs were filed with the Oregon Water Resources Department for all three wells and document initiation of construction in conformance with the permit. Copies of the well logs are attached.

3. III. Evidence of actions taken to develop the right within the permitted time frame and/or time period of the previous extension.

An extension application was filed on September 3, 1997. Multiple letters and telephone conversations document prudent responses and follow up on the extension application by the applicant.

As noted in the September 3, 1997 extension application, Eagle Crest had constructed two wells by 1997. 50 HP and 300 HP pumps were installed in the wells, well house improvements had been completed, a 300,000 gallon storage reservoir had been constructed, and miles of water distribution piping had been installed. Approximately 350 homesites, numerous recreational and



commercial facilities, an 18-hole golf course, recreation center, pro-shop, hotel expansion, conference center, and sales office had been completed by 1997.

Between 1997 and 2002, Eagle Crest, Inc. continued development of resort properties. Development is not yet complete and infrastructure not yet extended to all future homesites within the service area. However, development is substantially complete. Nearly 1,000 residential units or homesites have been developed to date, including the extension of a water distribution system and standard infrastructure to these homesites. A third well, including pump, well house improvements, valves, and electronic controls have been completed. A copy of the address map for the Ridge at Eagle Crest (Eagle Crest II) is enclosed to document development progress.

4. **IV. Evidence of compliance with conditions contained in the permit and any previous extension(s). If any of the conditions have not been satisfied, please explain the reasons why.**

A copy of permit G-11762 is attached. Permit conditions include well construction standards, which are documented on the attached well logs.

Appropriate water meters have been installed on each of the three wells and a complete record of water use maintained on a monthly basis. Annual reports of water use have been submitted regularly to the Oregon Water Resources Department.

Air lines have been installed to allow static and pumping water level measurements on a regular basis. Static water level measurements have been reported to the Oregon Water Resources Department on an annual basis for all Eagle Crest wells.

To the very best knowledge of the applicant, all water use has been efficient as measured by the standard of the industry, without waste. In addition, all appropriate land use approvals are in place and water use is considered in full compliance with land use goals and the local acknowledged land use plan.

5. **V. Evidence of the maximum rate of water delivered to date, if any, for Quasi-Municipal or Municipal purposes.**

The three wells constructed at Eagle Crest are typically utilized in a lead/lag control configuration to meet multiple and varying water demands. Each of the three wells have been designed and constructed to supplement irrigation water supplies, domestic water supplies, and/or fire protection systems. Automatic controls set fire protection and domestic use as the highest priority.

The design capacity for each of the three wells, under the lowest anticipated discharge head, and therefore the highest discharge rate, are noted below:

Well #6: 160 gpm

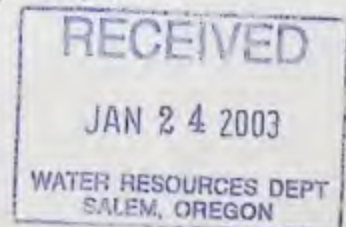
Well #7: 370 gpm

Well #8: 820 gpm

Estimated Maximum Discharge: 1,350 gpm

Eagle Crest has constructed source facilities with capacity equal to that allowed under the permit. Eagle Crest has not yet utilized that full capacity on a regular basis.

I:\Projects\Eagle Crest Inc\816567 EC II III Cline Butte Util\Office\Word\010703-30036(816567)-tawbop.doc



6. VI. An estimate of the population served under this permit and a description of the methodologies used to make this estimate.

Eagle Crest, Inc. can only estimate the population, based upon the number of constructed dwellings and a rough projection of the average family size visiting the resort. Eagle Crest has confirmed that resort populations vary dramatically from day to day and month to month throughout the year. Occupancy rates are much higher in the summertime and typically much lower in the spring and fall. Regardless, our best estimate of the population served is based upon 490 constructed residential dwellings and an average population per unit of 3.5 people, resulting in a rough estimate of 1,715 people for the current Eagle Crest II population. The population estimate would apply only during full occupancy during the peak season of the year.

7. VII. A description of the financial expenditures made toward completion of the water development.

The following table provides a rough estimate of the capital expenditures associated with the construction and improvement of wells, installation of water distribution system piping, and construction of the storage reservoir.

**ESTIMATED CONSTRUCTION VALUE OF THE EXISTING EAGLE CREST II
WATER SUPPLY AND DISTRIBUTION SYSTEM**

1. Well #6	\$150,000	
2. Well #7	\$300,000	
3. Well #8	\$350,000	
4. 11 Miles of 6" to 12" Water Distribution Piping		\$2,300,000
5. 300,000 Gallon Storage Reservoir	\$150,000	
6. Estimated Totals	\$3,150,000	



8. VIII. An estimate of the cost necessary to complete the water development.

As noted, the water supply and distribution system for Eagle Crest II is substantially complete. Approximately 5,000 lineal feet (LF) of water distribution system remain to be constructed within currently undeveloped sections of the resort. The estimated cost of the water distribution system, including mainlines, valves, fire hydrants, water services, and related appurtenances is \$200,000. This cost estimate is based upon a typical unit price of \$40.00 per LF.

9. IX. A summary of any events that delayed completion of the water development or application of water to full beneficial use, including other governmental requirements, if any, relating to the project, that have significantly delayed completion of construction or perfection of the right.

Eagle Crest, Inc. is obligated to obtain numerous local, state, and federal reviews and approvals in the course of resort development. Although approvals have been appealed and delayed under land use regulations, no significant delays have been incurred since the issuance of permit G-11762. Rather, buildout of Eagle Crest is based upon market conditions and the related significant complexities of community development. Completion of the water distribution system and perfection of the water right are dependent upon market demand and the associated buildout of the resort. The rate and extent of development are beyond the control of the applicant.

10. **X.** An estimated demand projection and a description of the methodologies used for the subject water right permit, considering the other water rights and contracts held by the municipal or quasi-municipal water use permit holder, and a date by which the water development is anticipated to be completed and water put to full beneficial use.

XI. Extension requests for greater than 50 years must include documentation that the demand projection is consistent with the amount and types of lands and uses proposed to be served by the permit holder.

Development at Eagle Crest is regulated by Deschutes County land use codes and associated State of Oregon land use goals. The land use approvals for Eagle Crest stipulate a maximum number of units. Eagle Crest, Inc. has utilized the land use stipulations to prepare a water supply system master plan, projecting the ultimate water demand for the resort, including all water supplies. The water supply system master plan has been updated on a regular basis, with the most recent being July 2002. A copy of the master plan update is attached.

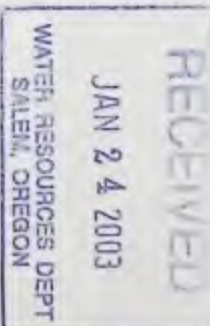
The Eagle Crest water master plan estimates 985 equivalent dwelling units at full buildout of the Ridge at Eagle Crest (Eagle Crest II). The peak day domestic consumption for Eagle Crest II is estimated at 1.2 million gallons, with a source requirement of 855 gpm. Because domestic use is subject to significant peaks during the day, a peak instantaneous demand is estimated at 2,138 gpm. In addition, a peak landscape irrigation requirement of 1,780 gpm is estimated for Eagle Crest II. Eagle Crest, Inc. analyzed all water rights and concluded the permit allowance of 3.0 cubic feet per second (1,350 gpm) under permit G-11762, together with all other water rights, is adequate to meet the long-term demand of the resort at buildout.

Water consumption per dwelling unit at Eagle Crest, Inc. is based upon historical water consumption on metered accounts for previously developed sections of the resort. Similarly, irrigation water demand is based upon historical consumption, primarily on irrigated golf course turf. Eagle Crest, Inc., as documented in the water system master plan, recognizes that weather conditions, project populations, occupancy rates, water conservation, and numerous other factors can affect water demand and required source capacity. The very best information, utilizing standards of the engineering profession, conclude that the constructed source facilities, with capacity equal to that allowed under the permit, are expected to meet the ultimate demand for the project.

Ultimate buildout of the resort is subject to market demand and market conditions that are outside of the control of the applicant. A projection of historical lot sales suggests that the resort will approach buildout in the years 2008 to 2012. Eagle Crest, Inc. initially requested an extension of time until 2008. The current extension application requests that completion requirements be extended to the year 2012.

11. **XII.** A summary of the plan and schedule to complete construction and/or perfect the water right.

Eagle Crest, Inc. has completed land use master plans, which include preliminary designs for residential units and the associated infrastructure. In addition, water supply system master plans have been completed and updated, providing the plan and schedule for construction of water facilities and the perfection of water rights. These documents have been submitted to the Oregon Health Division and the Deschutes County Planning Department. Copies of these documents can be provided upon request.

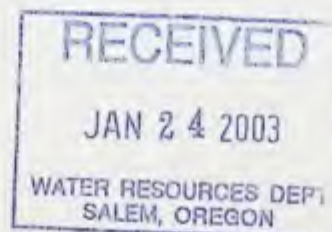


Generally, buildout of the Eagle Crest resort will occur in phases to match market demand. Projection of historical sales data suggest the water right will be fully perfected by the year 2012.

12. ~~XIII.~~ **Justification for the time requested to complete the project and/or apply the water to full beneficial use.**

As noted, the development of Eagle Crest is fully dependent upon market demand and conditions that are outside of the applicant's control. Eagle Crest, Inc. must develop in a reasonable manner, under conditions and time frames that are economically viable. None of these conditions can be projected or estimated accurately, because of ever changing market conditions. Historical absorption of Eagle Crest inventory suggests buildout will occur between the years 2008 and 2012. A 10-year extension is requested, to best comply with these broad estimates and projections. If buildout occurs prior to the 10-year extension request, then final proof surveys can be completed at that time.

13. ~~XIV.~~ **Any other information you wish the department to consider while evaluating the extension of time application.**



walker

STATE OF OREGON
COUNTY OF DESCHUTES
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE RIDGE DEVELOPMENT CORPORATION
P.O. BOX 1215
REDMOND, OREGON 97756

503-923-0807

to use the waters of THREE WELLS in the DESCHUTES RIVER BASIN for QUASI-MUNICIPAL USE.

This permit is issued approving Application G-12905. The date of priority is MAY 4, 1992. The use is limited to not more than 3.0 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

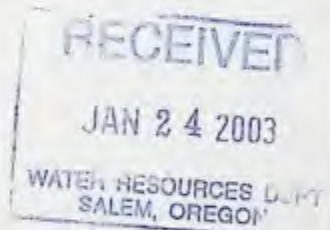
SW 1/4 NW 1/4, SECTION 14, SW 1/4 SE 1/4, SECTION 15, T 15 S, R 12 E, W.M.; WELL 1 - 120 FEET NORTH AND 980 FEET EAST FROM THE W 1/4 CORNER OF SECTION 14, WELL 2 - 962 FEET NORTH AND 823 FEET EAST, WELL 3 - 1009 FEET NORTH AND 802 FEET EAST, BOTH FROM THE S 1/4 CORNER OF SECTION 15.

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

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

SW 1/4 SW 1/4
SECTION 11
SW 1/4 SW 1/4
SECTION 13
W 1/2
SE 1/4
SECTION 14
E 1/2
SECTION 15
N 1/2 NE 1/4
SE 1/4 NE 1/4
SECTION 22
N 1/2
N 1/2 SE 1/4
SECTION 23
W 1/2 W 1/2
SECTION 24

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



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

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director.

Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The 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 10 or more feet over any period of years, when 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 10-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 first (March 1995) or second annual (March 1996), whichever is higher, 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.

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.

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

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

Actual construction work shall begin on or before May 31, 1995 and shall be completed on or before October 1, 1997. Complete application of water shall be made on or before October 1, 1998.

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

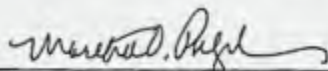
This permit is for beneficial use of water without waste. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

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

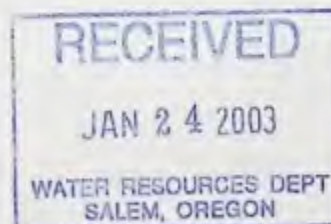
The use of water shall be limited when it interferes with any prior surface or ground water rights.

The Water Resources Commission has found that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest on April 20, 1994.

Issued this date, May 3/ , 1994.



Water Resources Department
Martha O. Pagel
Director



RECEIVED
JUN 10 1994

W & H PACIFIC INC.

Municipal/Quasi-Municipal Permit Extension Application



Published on the Department's Public Notice, dated:

JB 2/11/03

After published on the Public Notice, please.....

☐ Enter/Update the date published on the public notice in the "PNotice Date" field in the "cdatewext.DB" database

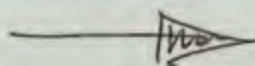
☐ Verify the "Ext Filed" field in the "cdatewext.DB" database is accurate.

The "filed" date for this extension should be:

11-27-98

☐ Return File to Lisa

Over



for Public Notice Info

PUBLIC NOTICE INFORMATION

Permit Holder: Cline Butte Utility Co. / Eagle Ridge Development Corp.

Mailing Address: PO Box 1215

County: Redmond, OR 97756

Quantity of Water: 3.0 cfs

Source of Water: 3 wells in the Deschute R. Basin

Application #: G-12905 Permit #: G-11762

Permitted Use: Quasi-Municipal

Proposed Date for Extension: 10-1-2012

Application # G-12905 / Permit # G-11762

Route Slip ... Extension of Time

per Division 315 Rules... (Extensions received on July 1, 2001 or after)

♦ **WRIG...**
✓ Money Received: \$100.00 on 9-8-97

♦ **Lisa Juul...**
Extension Completeness: _____
(If NOT complete, send certified letter requesting add'l information.)

If Extension Appl complete and \$100 fee submitted, route to...

♦ **Jonnine Fuss...**
✓ Initial 30-day Public Notice: 2-11-03
✓ Update Extension Database: _____
✓ Files back to filing cabinets: _____

At the close of the Initial 30-day Comment Period...

♦ **Lisa Juul...**
Pull files for Ext PFO review: _____
Extension PFO completed: _____

Once Extension PFO signed by Dwight French...

♦ **Jonnine Fuss...**
Prepare Ext PFO for mailing to applicant: _____
Mail to those who commented and paid copy fee: _____
Include Ext PFO on weekly Public Notice: _____

Within 60 days after the close of the 45-day PFO Protest Period...
(PFO Protest Period ends 45 days from PFO sign date)...

♦ **Lisa Juul...**
Issue an Extension FO: _____

Municipal or Quasi-Municipal
EXTENSION REVIEW CHECKLIST for PFO... pe

Superseded
by

April 3, 2007

Applic. for.
Ext. of Time

Application #: G-12905 / Permit #: G-11

Permittee's Name: Cline Butte Utility Co.

Permittee's Mailing Address: 1140 Nutcracker Rd, Redmond, OR 97756

POD Location: Township 15-S Range 12-E Section 14 SWNW
15 SWSE

Stream Basin: _____ County: Deschutes

✓ 1. Has the applicant completely filled out the updated Extension Application form? Yes / No

***If "No" has certified request for the new extension form been sent? Yes / No

✓ \$100 - Yes
on 9-8-97

2. Shortcomings of Extension Request..... based upon review of updated extension form Yes / No

*** (NOTE: Any missing Extension information that is needed before an Extension PFO can be completed???)

• Clarify max
"Q" developed.

✓ 3. Date Permit was issued: 5-31-94 (priority = 5-4-92)

✓ 4. Source: Three Wells in the Deschutes River Basin

✓ 5. Use: Quasi-Municipal

✓ 6. "Q": 3.0 cfs

✓ 7. Original "B" Date: 10-1-97 Original "C" Date: 10-1-98

✓ 8. Conditions of Permit: Original "A" Date: 5-31-95

- Before use begins → shall install a meter or other suitable meas. device
- Shall keep complete record of monthly water use & report annually to WRD.
- Shall obtain March SWL measurements for each well & report to WRD within 30 days of measurement.

→ **NO "7" SWW Condition** ←

orig 9-8-97 & updated 11-27-98

✓ 9. Extension request received: New Muni Appl 1-24-03 Request Number (...1st 2nd, 3rd): 1st

✓ 10. Last Authorized "B" Date: 10-1-97 Last Authorized "C" Date: 10-1-98

✓ 11. Proposed "B" Date: 10-1-2012 Proposed C Date: 10-1-2012

unneeded

Municipal or Quasi-Municipal

EXTENSION REVIEW CHECKLIST for PFO... per Div. 315 Rules

Application #: G-12905 / Permit #: G-11762

Permittee's Name: Cline Butte Utility Co.

Permittee's Mailing Address: 1140 Nutcracker Rd, Redmond, OR 97756

POD Location: Township 15-S Range 12-E Section 14 ^{SW NW} 15 ^{SW SE} 1/4-1/4

Stream Basin: _____ County: Deschutes

- ✓ 1. Has the applicant completely filled out the updated Extension Application form? Yes / No ✓ \$100 - Yes on 9-8-97
***If "No"..... has certified request for the new extension form been sent? Yes / No
- ___ 2. Shortcomings of Extension Request..... based upon review of updated extension form Yes / No
*****(NOTE: Any missing Extension information that is needed before an Extension PFO can be completed???)**
Clarify max Q developed.
- ✓ 3. Date Permit was issued: 5-31-94 (priority = 5-4-92)
- ✓ 4. Source: Three Wells in the Deschutes River Basin
- ✓ 5. Use: Quasi-Municipal
- ✓ 6. "Q": 3.0 cfs
- ✓ 7. Original "B" Date: 10-1-97 Original "C" Date: 10-1-98
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• Before use begins → shall install a meter or other suitable meas. device
• Shall keep complete record of monthly water use & report annually to WRD.
• Shall obtain March SWL measurements for each well & report to WRD within 30 days of measurement.
- **NO "7" SWW Condition** ←
orig 9-8-97 & updated 11-27-98
- ✓ 9. Extension request received: New Quasi Appl 1-24-03 Request Number (...1st, 2nd, 3rd): 1st
- ✓ 10. Last Authorized "B" Date: 10-1-97 Last Authorized "C" Date: 10-1-98
- ✓ 11. Proposed "B" Date: 10-1-2012 Proposed C Date: 10-1-2012

✓12. Amount Invested to date: \$3,150,000.00 Estimated Total Cost: \$3,350,000.00
(***Estimated Remaining Cost: \$200,000.00*)

✓13. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit. Yes No ***If "No"..... What permit terms and/or conditions have not been met?
• 2003 population = 1,715 people approx.
• "A" Date met → initial well construction began on 9-18-91. (See Well logs attached)
• meters have been installed.
• Annual water use reported
• SWL measurements reported.

14. Work on the water development project completed to date includes:
• Have used Max Rate of _____ gpm
• Constructed 3 wells
• installed pumps & meters.
• installed distribution lines.
• constructed a 300,000 gal. storage reservoir
• Nearly 1,000 to date.
• Recreational & 18-hole
Clarify "Q" developed.
15. The work remaining to be completed consists of:
• completion of construction
• full beneficial use of water.

✓16. Progress in perfecting the permit is being held up by:
• Growth of the community demands have not yet exceeded the Quantity of water.

17. Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes / No
• Conditions have been met.
• Substantial amount of construction & other work accomplished on project
• Have invested approx. 94% of total estimated cost to complete project.
• Have used _____ % of total permitted "Q" of water.

18. Determination of the market and the present demand for water or power to be supplied: _____

19. Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?
Yes... "Good Cause" can be found. → Approval of Extension Request
No ... "Good Cause" cannot be found. → Denial of Extension Request

20. Conditions to be included on Extension PFO: Div 86 - Max "Greenlight" Q Condition

✓12. Amount Invested to date: \$3,150,000.00 Estimated Total Cost: \$3,350,000.00
(***Estimated Remaining Cost: \$200,000.00*)

• 2003 population = 1,715 people approx.

✓13. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit. (Yes) No ***If "No"..... What permit terms and/or conditions have not been met?

- "A" Date met → initial well construction began on 9-18-91. (See Well Logs attached)
- meters have been installed.
- Annual water use reported
- SWL measurements reported.

14. Work on the water development project completed to date includes:

- Have Used Max Rate of _____ gpm
- constructed 3 wells
- installed pumps & meters.
- installed distribution lines.
- constructed a 300,000 gal. storage reservoir
- Nearly 1,000 homesites developed to date.
- Recreational & Commercial facilities built & 18-hole golf course in place.

✓15. The work remaining to be completed consists of:

- completion of construction
- full beneficial use of water.

✓16. Progress in perfecting the permit is being held up by:

• Growth of the community ~~and~~ and assoc. demands have not yet exceeded the permitted Quantity of water.

17. Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes / No

- Conditions have been met.
- Substantial amount of construction & other work accomplished on project
- Have invested approx. 94% of total estimated cost to complete project.
- Have used _____ % of total permitted "Q" of water.

18. Determination of the market and the present demand for water or power to be supplied: _____

19. Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. → Approval of Extension Request

No ... "Good Cause" cannot be found. → Denial of Extension Request

20. Conditions to be included on Extension PFO: Div 86 - Max "Greenlight" Q Condition

Extension "PFO" Dates

Checklist Last Revised: 1/31/2003

Mailing / Issuance Date: _____

Reviewer's Name: [Signature]

Protest Deadline Date: _____

Date: 11-7-03

Submit ~~& get~~ COBA get proposed Cert
Hold Ext. Pending
until then re OK
with proposed Cert
& then withdraw
Ext. Appl.

Appl G-12905 / Permit G-11762.
Cline Butte Utility Co.

L. Juhl

2-23-04

Were wells metered by ~~NO~~ - ~~OK~~
October 1, 1998?

- Don't need to have
used water on all lands.

→ just need "to claim" the

- boundaries of districts -

* Show Service area
& "claim" that's area

→ Some SWL measurements (POD 2 & 3)
made prior to October 1, 1998.

OK

→ Water Use Reports submitted
for water years 2000 & 2001.

OK

left mass
with Tom Walker
on 2-23-04
@ 2:45 pm.

• Last authorized "C" date = 10-1-98

App# G-12905 / Permit# G-11762

2-10-04
L. Jun

Cline Butte Utility Co

Contact: Thomas Walker, CWRE@541-388-4255

- Item #5 - Clarify Max "Q" developed to date under Permit G-11762.

Yes - 3.0 cfs
diverted by 10-1-98
just waiting for
full build out.

* Same wells on: Permit G-11762 & Permit G-11313
both: (cm) (TR & cm)

- How do other permits / certificates relate to this one?

Subject permit → Appl G-12905 / Permit G-11762 - 3.0 cfs for Quasi-Muni from 3 wells.
Appear to cover DIFFERENT Places of Use

Appl G-14857 / Permit G-13856 - 3.34 cfs for Quasi-Muni from one well.

NOTE: ① Specific Limits & Conditions
WS Cert 74145 permanently transferred to instream use.

② Required submittal of Div 86 plan by 10-17-2001

Appl G-12429 / Permit G-11313 - 4.28 cfs from 3 wells
being 3.97 cfs - Irrig. of 317.22 ac
& 0.31 cfs - Commercial

- Is G-12905 / G-11762 only source for the Ridge at Eagle Crest (Eagle Crest II).

Tom Walker
W&H Pacific
541-388-4255

2-11-04

- Max rate developed - 3.0 cfs

- Just need more time finish

As of
* Oct 1, 1998 → ("C" Date)

had diverted 3.0 cfs
just needed to wait for
full build out.

① Are they in a position
to prove up?

200

- they've diverted the max Q for QM use.

★ Check on whether or not extension
needed & then contact Tom Walker.

Work
Completed
By 1997

Cline Butte Utility Co.
App G-12905 / Permit G-11762

11-13-03
L. Juhl

- Constructed 2 wells
- installed pumps (50 HP & 300 HP)
- Completed well house improvements.
- Constructed a 300,000 gallon storage reservoir
- installed miles of distribution piping.
- Approx 350 homesites, numerous recreational & commercial facilities, 18-hole golf course, recreation center, pro-shop, hotel expansion, conference center & sales office in place & completed.

Work
Completed
Between
1997
& 2002

* Meters installed on each well.

- Nearly 1,000 residential units & homesites developed.
- extended water distribution ^{& standard infrastructure} lines to all of these new homesites.
- 3rd well completed, including pump, well house improvements, valves & electronic controls.

Questions

Appl # G-12905
Permit # G-11762

11-13-03

- It seems they could reasonably demonstrate that fewer than 5 years is necessary to complete construction & apply water to full beneficial use.

- OAR 690-315-0090(5)

So, would not require Div 8b.

Plan & max "Q" limit for diversion.
under OAR 690-315-0090(3).

- See calculations.

- Can Quasi-Muni demonstrate that they can theoretically use the water?

- Need extension because ~~we~~ can't
can't show max Q used within
valid "C" Dates.

- System & homesites not yet
completely built out.

Memo

Oregon Water Resources Department Water Rights Section

To: Certificate Staff and Interested Persons

From: Dwight French, Water Rights Section Manager *DF*

December 30, 2002

RE: Determining Proof to the Satisfaction of Municipal and Quasi-Municipal Use Permits

RATE AND BENEFICIAL USE

1. Minimum diversion point demonstration time is four hours. Quickly ramping up to a peak rate for a few seconds or minutes does not sufficiently test the system capacity. The statute provides no guidance. The "rate" on the permit is usually described in cubic feet per second or gallons per minute.
2. All of the water diverted during the four hour minimum proof period needs to be used beneficially (not wasted). The water does not need to be used during the rate demonstration period. Water providers may surge the water into in-system storage tanks and then consume the water over a longer period of time. This approach will keep the Department from having to know when all of the diverted water was consumed.

MULTIPLE RIGHTS AT THE SAME DIVERSION

3. If the treatment capacity is shared with another water right that has a certificate, the second certificate should be limited to the total capacity of the treatment facility.
4. If the diversion works are shared with another water right that has a certificate, the second certificate should be limited to the total capacity of the diversion works.
5. If the permit is for a back-up water supply system that would use the same treatment facility, wording can be used to describe that no more than X CFS may be diverted at any one time from certificates Y and Z. "X" is the maximum capacity of the treatment facility during a consistent four hour period.
6. When determining proof for a municipality, an inventory of all certificates issued to that particular municipality must be completed (by WRD staff). The capacity, location, and use of all treatment plants and POD's in a water provider's control must be understood in order to determine proof. In addition, the certificates that involve nearby POD's from the same source and use also need to be checked since water providers can enter into agreements to share POD's and treatment facilities.
7. For the purpose of making proof, entities sharing POD's or treatment facilities should be considered as the same entity.

OTHER ISSUES AT PROOF

8. This memo does not attempt to address how the place of use should be depicted on a certificate, proof of reservoir rights or their secondaries or issues related to partial perfection beyond determining the appropriate rate.
9. A determination of proof is subject to a review of all permit conditions and the extent to which they have been satisfied.

537.250 Water right certificate; issuance; inclusion of land not described in permit; recordation; duration of rights. (1) After the Water Resources Department has received a request for issuance of a water right certificate accompanied by the survey required under ORS 537.230 (3) that shows, to the satisfaction of the department, that an appropriation has been perfected in accordance with the provisions of the Water Rights Act, the department shall issue to the applicant a certificate of the same character as that described in ORS 539.140. The certificate shall be recorded and transmitted to the applicant as provided in that section.

537.260(2) The department may determine the extent to which an appropriation has been perfected under any permit at the time of submission of final proof provided for in ORS 537.250, and shall limit the certificate provided for in that section to a description of such appropriation as has been actually perfected to the extent that the water applied for has been actually applied to the beneficial use contemplated in the permit.

539.140 Water right certificates. Upon the final determination of the rights to the waters of any stream, the Water Resources Department shall issue to each person represented in the determination a certificate setting forth the name and post-office address of the owner of the right; the priority of the date, extent and purpose of the right, and if the water is for irrigation purposes, a description of the legal subdivisions of land to which the water is appurtenant. The original certificate shall be mailed to the owner and a record of the certificate maintained in the Water Resources Department. [Amended by 1971 c.621 §38; 1975 c.607 §41; 1979 c.67 §4; 1991 c.102 §8]

23,427

3.71 hours ~~to~~ to fill

300,000 gal Res.

1 AF = 325,851 gal

1 cfs = 7.48/sec = 448.8 gpm

3 cfs = 1346.4 gpm (60)

80,784 gph

390 gpm of use
at time of fill

11-13-03

• Max rate of water diverted?

Last auth C Date = 1999

appl says - 1,350 gpm (3.0 cfs) - Why is extension needed?

also state "Eagle Crest has not yet utilized that full capacity on a regular basis."

* May 13, 1999 letter → Capacity of system = 3.0 cfs
but max use = 540 gpm (1.2 cfs)

July 2000

Well 1 = 0

Well 2 = 13,395,600

Well 3 = 24,193,800

37,589,400 gallons

$37,589,400 \div 31 \text{ days} = 1,212,561.3 \text{ gallons/day}$

$1,212,561.3 \text{ gpd} \div 24 \text{ hrs} = 50,523.4 \text{ gallons/hour}$

$50,523.4 \text{ gph} \div 60 \text{ min} = 842.1 \text{ gallons/min}$

$842.1 \text{ gpm} \div 448.83 = 1.88 \text{ cfs} - \text{July 2000.}$

... per Division 520 Rules

EXTENSION REVIEW CHECKLIST for PFO

Application #: G-12905 / Permit #: G-11762

Permittee's Name: Cline Butte Utility Co.

Permittee's Mailing Address: 1140 Nutcracker Rd, Redmond OR 97756

POD Location: Township 15-S Range 12-E Section 14 & 15 $\frac{1}{4}$ $\frac{1}{4}$

Stream Basin: Desc R & misc County: Deschutes

1. Has the applicant completely filled out the updated Extension Application form? Yes ☒ No ☐ - Need New Form

***If "No" has certified request for the new extension form been sent? Yes / No

*Need: Muni Water Use & Projected Needs Form

2. Shortcomings of Extension Request..... based upon review of updated extension form Yes / No

*** (NOTE: Any missing Extension information that is needed before an Extension PFO can be completed???)

✓ 3. Date Permit was issued: 5-31-94

✓ 4. Source: Three Wells

✓ 5. Use: Quasi-Municipal

✓ 6. "Q": 3.0 cfs

✓ 7. Original "B" Date: 10-1-97 Original "C" Date: 10-1-98

✓ 8. Conditions of Permit:

- Before Water Use begins → shall install a meter.
- Shall keep monthly record of water use & report annually to WRD.
- Shall obtain static water level measurement each March & submit to WRD within 30 days.

✓ 9. Extension request received: orig. → 9-8-97 & Updated 11-27-98 (plus duplicate on 10-2-98) Request Number (... 1st 2nd, 3rd): 1st

✓ 10. Last Authorized "B" Date: 10-1-97 Last Authorized "C" Date: 10-1-98

✓ 11. Proposed "B" Date: 10-1-2007 Proposed C Date: 10-1-2008

✓ 12. Amount Invested to date: \$1,500,000.00 Estimated Total Cost: \$4,500,000.00

(Remaining Cost: \$3,000,000.00)

___13. The water project development made to date has been accomplished in accordance with the terms and conditions contained in the permit. Yes / No

***If "No"..... What permit terms and/or conditions have not been met?

- Have submitted static level measurements - Approved?
- Have submitted water use report - Approved?

___14. Work on the water development project completed to date includes: 75% developed

- Approx 1350 gpm have been put to beneficial use
- 200 Ac have been irrigated
- 3rd well construction with pump
- 2nd golf course partially constructed
- 1st & 2nd wells constructed & operational
- Hundreds of residential units developed.
- Water distribution system expanded.

___15. The work remaining to be completed consists of: _____

___16. Progress in perfecting the permit is being held up by: _____

- due to the size of the project... a longer time-frame is required to phase in development than was originally allowed under the permit.

___17. The applicant has / has not pursued perfection of the right in good faith and with reasonable diligence.

___18. Based on the written record, the Department finds there is / is not good cause to approve the extension request.

___19. Conditions to be included on Extension PFO: _____

Extension "PFO" Dates

Mailing / Issuance Date: _____

Protest Deadline Date: _____

Reviewer's Name: _____ Date: _____

Water Rights Information Query Results

T. 15s R. 12E

Name	Application	Permit	Certificate	Decree	Claim	Transfer	Status
EAGLE RIDGE DEVELOPMENT CORPORATION PO BOX 1215 BEND OR 97701 (details) - 3 Wells - Comm & Irrig Use	G12429	G11313					NC

Page:1

4.28 cfs being (0.31 cfs - CM & 3.97 cfs - IR)

Print

Download [Place of Use Data](#), [Point of Diversion Data](#), or [Owner Data](#)

[Return to the Water Right Information search screen](#)

Paul R. Cleary, Director

Oregon Water Resources Department • 725 Summer St NE, Suite A • Salem, OR 97301-1271 • Phone: 503-986-0900 • Fax: 503-986-0903

Water Rights Information Query Results

Name	Application	Permit	Certificate	Decree	Claim	Transfer	Status
CLINE BUTTE UTILITY CO. 1140 NUTCRACKER RD REDMOND OR 97756 (details)	G12905	G11762					NC
CLINE BUTTE UTILITY CO. 1140 NUTCRACKER REDMOND OR 97756 (details)	G14857	G13856	One Well - Quasi-Municipal - 3.34 cfs				NC

Further
limited...
See permit.

Page:1

T. ISS R. 12E

Download [Place of Use Data](#), [Point of Diversion Data](#), or [Owner Data](#)

[Return to the Water Right Information search screen](#)

Paul R. Cleary, Director

Oregon Water Resources Department • 725 Summer St NE, Suite A • Salem, OR 97301-1271 • Phone: 503-986-0900 • Fax: 503-986-0903

REC

REC

STATE OF OREGON

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE RIDGE DEVELOPMENT CORPORATION
P.O. BOX 1215
REDMOND, OREGON 97756

to use the waters of THREE WELLS in the DESCHUTES RIVER BASIN for IRRIGATION OF 317.22 ACRES AND COMMERCIAL USE (GOLF COURSE).

This permit is issued approving Application G-12429. The date of priority is FEBRUARY 26, 1991. The use is limited to not more than 4.28 CUBIC FEET PER SECOND (CFS); BEING 3.97 CFS FOR IRRIGATION AND 0.31 CFS FOR COMMERCIAL USE, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

WELL 1 - NE 1/4 NE 1/4, SECTION 22, T 15 S, R 12 W, W.M.; 350 FEET SOUTH AND 1170 FEET WEST FROM NE CORNER, SECTION 22;

WELL 2 - NW 1/4 SE 1/4, SECTION 15, T 15 S, R 12 W, W.M.; 840 FEET SOUTH AND 200 FEET EAST FROM C 1/4 CORNER, SECTION 15;

WELL 3 - SE 1/4 NE 1/4, SECTION 22, T 15 S, R 12 W, W.M.; 2300 FEET SOUTH AND 150 FEET WEST FROM NE CORNER, SECTION 22.

The amount of water used for irrigation under this right, together with the amount secured under any other right existing for the same lands, is limited to a diversion of ONE-EIGHTIETH of one cubic foot per second (or its equivalent) and 3.0 acre-feet for each acre irrigated. The use of water for irrigation may be made at any time that water can be put to beneficial use.

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

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

SW 1/4 NE 1/4	1.43 ACRES AND COMMERCIAL USE
NW 1/4 NW 1/4	20.15 ACRES AND COMMERCIAL USE
SW 1/4 NW 1/4	17.24 ACRES AND COMMERCIAL USE
SE 1/4 NW 1/4	7.26 ACRES AND COMMERCIAL USE
NE 1/4 SW 1/4	19.38 ACRES AND COMMERCIAL USE
NW 1/4 SW 1/4	23.32 ACRES AND COMMERCIAL USE
SW 1/4 SW 1/4	24.27 ACRES AND COMMERCIAL USE
SE 1/4 SW 1/4	13.08 ACRES AND COMMERCIAL USE

SECTION 14

SW 1/4 NE 1/4	11.87 ACRES AND COMMERCIAL USE
SE 1/4 NE 1/4	19.31 ACRES AND COMMERCIAL USE
NE 1/4 SE 1/4	20.07 ACRES AND COMMERCIAL USE
NW 1/4 SE 1/4	16.15 ACRES AND COMMERCIAL USE
SW 1/4 SE 1/4	14.56 ACRES AND COMMERCIAL USE
SE 1/4 SE 1/4	26.58 ACRES AND COMMERCIAL USE

SECTION 15

NE 1/4 NE 1/4	26.88 ACRES AND COMMERCIAL USE
NW 1/4 NE 1/4	23.36 ACRES AND COMMERCIAL USE
SE 1/4 NE 1/4	11.04 ACRES AND COMMERCIAL USE

SECTION 22

NE 1/4 NW 1/4	COMMERCIAL USE
NW 1/4 NW 1/4	21.27 ACRES AND COMMERCIAL USE

SECTION 23

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

PAGE TWO

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

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

Actual construction work shall begin on or before August 12, 1992, and shall be completed on or before October 1, 1993. Complete application of the water shall be made on or before October 1, 1994.

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

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

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

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

Issued this date, AUGUST 12, 1991.

/S/ WILLIAM H. YOUNG

Water Resources Department
William H. Young
Director

B ~~ext~~ ext to 10-1-94 EXT. BC97

B+C EXT to 10-1-95

B+C ext to 10-1-96

BØ6
CØ7

Application G-12429 Water Resources Department
Basin 5 Volume 1 Deschutes River & Misc.
G-12429.SB MGMT.CODE 3LW

PERMIT G-11313
District 11

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-12905

Final Order
Extension of Time for Permit Number G-11762

Appeal Rights

This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

The Department issued Permit G-11762 on May 31, 1994. The permit called for completion of construction by October 1, 1997, and complete application of water to beneficial use by October 1, 1998. On April 3, 2007, the Cline Butte Utility Company submitted an application to the Department for an extension of time for Permit G-11762. In accordance with OAR 690-315-0050(2), on September 4, 2007, the Department issued a Proposed Final Order proposing to extend the time to fully apply water to beneficial use to October 1, 2008. The protest period closed October 19, 2007, in accordance with OAR 690-315-0060(1). No protest was filed.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, the permit may be extended subject to the following conditions:

CONDITIONS

1. **Static Water Level Measurement and Reporting Condition**

The Department requires the water user to measure and report annual static water levels for each well on the permit. Or the water user can measure other wells in close proximity to the permitted wells, if the Department's Groundwater Staff determines that the substitute observation wells will provide adequate data to assess the impacts from the permitted wells. The static water level shall be measured in the month of March, beginning in the year 2008. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. Reference water-level measurements for determining water-level declines on this permit are as follows: Well #6: 518'; Well #7: 518'; and Well #8 312'. Or, the first annual measurement at the substitute observation wells will establish the reference levels against which future measurements will be compared. The Director may require the user to measure and report additional water levels each year if more data is needed to evaluate the aquifer system.

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

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

The water user shall discontinue use of, or reduce the rate of volume of withdrawal from the well if annual water-level measurements reveal a water-level decline of 10 or more feet.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water use shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0080(3).

Order

The extension of time for Application G-12905, Permit G-11762, therefore, is approved subject to conditions contained herein. The deadline for applying water to full beneficial use is extended to October 1, 2008.

STATE OF OREGON

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

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

The limits and conditions of the use are listed below.

SPECIFIC LIMITS AND CONDITIONS

APPLICATION FILE NUMBER: G-14857

SOURCE OF WATER: A WELL IN THE DESCHUTES RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USE

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

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

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 2, 1998

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

Application G-14857 Water Resources Department

PERMIT G-13856

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE QUARTER ALL
 NW QUARTER ALL
 SW QUARTER ALL
 SECTION 16
 TOWNSHIP 15 SOUTH, RANGE 12 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director, at both the diversion from the well and at a point where sewage, that is actually discharged to the ground, may be measured. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

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

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

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

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

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

STANDARD CONDITIONS

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

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

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

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

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

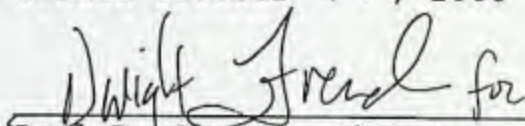
By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

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

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

Actual construction of the well shall begin by May , 2001. Complete application of the water to the use shall be made on or before October 1, 2005. Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued October 17, 2000


Paul R. Cleary, Director
Water Resources Department

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

Application G-14857
Basin 5
AMH

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

PERMIT G-13856
District 11

wr_id	wr_fam_id	type	status	stage
22433	22433	GW	NC	CM

Date	Status	Method	MP hgt	Rpt WL	Ex WL Measured by	Source Organiz	Source OWRD	Comments
4/22/1998	STATIC	ETAPE		312	312 DRILLER	OWRD	WELL LOG	WELL LOG
3/31/2000	STATIC	ETAPE		315	315 THOMAS WALKER	PE	PERMIT COND	WELL IDLE 12 HRS
3/5/2001	STATIC	ETAPE		315	315 THOMAS WALKER	PE	PERMIT COND	WELL IDLE 14 DAYS
3/31/2002	STATIC	AIRLINE		315	315 THOMAS WALKER	PE	PERMIT COND	.
				-	-	-	-	-

Permit	Cert nbr	Pod
Old data: G 11762	0	2

pod location id	snr id	logid
7904	22433	DESC 1083

wr_id	wr_fam_id	type	status	stage
22433	22433	GW	NC	CM

Application	Permit	cert_nbr	Pod	Status	Source	Logid	Main aq	Userid lu	Priority	Township	Range	S	QQ	Q
G 12905	G 11762		2	NC	GW	DESC 1083		29088	05/04/1992	15.00 S	12.00 E	15	SW	SE

Condition type / Action status	SWL	SWL	Other measured wells	swl required
Date of last notice	2/19/2003		not on permit:	swl frequency
Impact plan: Submitted / Approved			Logid	swl month
Compliance: This yr / Overall			Main aq	swl duration
Compliance reviewed by				decline trigger
Compliance letter sent				decl trig shutoff
Month / Yr use began				reference level
Ref level gw	522.00			ref level date
Ref lvi det by				impact plan
Trigger activated				supply plan
Well not drilled as of				limit duration
App file check / Date				limit date
Comments	THE WELL CONSTRUCTOR MISTAKENLY LOCATED THE WELL IN T-15S R-12E SEC 22			
Other conditions				
	meter required			
	record water use			
	report water use			

Redrill Logid	Max Depth	Type Work	Compl Date	Correlated By	Comment

Current owner from pump_test_owners file:

name f / l	name other	CLINE BUTTE UTILITY CO
contact	email	
address	phone / fax	
city / st / zip	comment	
REDMOND OR 97756		

Reported water levels for the specified well. No water levels will be present if a well log has not been correlated to the water right. in wris_logids file.

Date	Status	Method	MP hgt	Rpt WL	Ex WL	Measured by	Source Organiz	Source OWRD	Comments
10/11/1991	UNKNOWN	UNKNOWN		528	528	CHARLES STADELI	DRILLER	PERMIT COND	
3/1/1995	STATIC	UNKNOWN		522	522	THOMAS A WALKER	CWRE	PERMIT COND	
3/1/1996	STATIC	UNKNOWN	2.417	522.0	522	THOMAS A WALKER	CWRE	PERMIT COND	
3/19/1997	STATIC	AIRLINE		521	521	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 30 DAYS
3/2/1998	STATIC	AIRLINE		523	523	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 8 HOURS
3/25/1999	STATIC	AIRLINE		523	523	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 4 HOURS

Permit	Cert nbr	Pod
Old data: G 11762	0	3

pod location id	snp id	logid
7905	22433	DESC 1198

wr_id	wr_fam_id	type	status	stage
22433	22433	GW	NC	CM

Application	Permit	cert_nbr	Pod	Status	Source	Logid	Main aq	Userid lu	Priority	Township	Range	S	QQ	Q
G 12905	G 11762		3	NC	GW	DESC 1198		29088	05/04/1992	15.00 S	12.00 E	15	SW	SE

Condition type / Action status	SWL	SWL	Other measured wells	swl required
Date of last notice	2/19/2003		not on permit:	swl frequency
Impact plan: Submitted / Approved			Logid	swl month
Compliance: This yr / Overall			Main aq	swl duration
Compliance reviewed by				decline trigger
Compliance letter sent				decl trig shutoff
Month / Yr use began				reference level
Ref level gw	522.00			ref level date
Ref lvl det by				impact plan
Trigger activated				supply plan
Well not drilled as of				limit duration
App file check / Date				limit date
Comments				meter required
				record water use
				report water use
Other conditions				

Redrill Logid	Max Depth	Type Work	Compl Date	Correlated By	Comment

Current owner from pump_test_owners file:	
name f / l	name other CLINE BUTTE UTILITY CO
contact	email
address 1140 NUTCRACKER	phone / fax
city / st / zip REDMOND OR 97756	comment

Reported water levels for the specified well. No water levels will be present if a well log has not been correlated to the water right. in wris_logids file.									
Date	Status	Method	MP hgt	Rpt WL	Ex WL	Measured by	Source Organiz	Source OWRD	Comments
2/20/1992	UNKNOWN	UNKNOWN		518	518	CHARLES STADELI	DRILLER	PERMIT COND	
3/1/1995	STATIC	UNKNOWN		522	522	THOMAS A WALKER	CWRE	PERMIT COND	
3/19/1997	STATIC	AIRLINE		521	521	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 30 DAYS
3/2/1998	STATIC	AIRLINE		523	523	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 120 DAYS
3/25/1999	STATIC	AIRLINE		523	523	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 14 DAYS
3/31/2000	STATIC	AIRLINE		523	523	THOMAS A WALKER	CWRE	PERMIT COND	IDLE 3 WEEKS

Water Use Reporting Database

printed 11-13-03
by L. Juul

jump to:

- home
- commission
- water law
- water rights
- surface water
- ground water
- maps
- programs
- publications
- links
- staff
- file pickup
- intranet

- about
- search
- oregon online
- comments

ALAN VAN VLIET, DIR OF CONSTRUCTION
EAGLE CREST MASTER ASSOC; EAGLE CREST PTNRS (C/O)
PO BOX 1215
REDMOND, OR 97756

Pod Id	Permit	Cert	Priority	Twntshp	Range	Sctn	Use	Rate	P/A/S	Source	Tributary To
36346	G 11762	0	5/4/1992	15S	12E	14	QM	3 C	P	WELL 1	DESCHUTES R

Water Year	Use	Units	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2000	QM	G	0	0	0	0	0	0	0	0	0	0	0	0
2001	QM	null	0	0	0	0	0	0	0	0	0	0	0	0

Pod Id	Permit	Cert	Priority	Twntshp	Range	Sctn	Use	Rate	P/A/S	Source	Tributary To
36347	G 11762	0	5/4/1992	15S	12E	15	QM	3 C	A	WELL 2	DESCHUTES R

Water Year	Use	Units	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2000	QM	G	11545200	3704400	3623400	3492000	3268800	4069800	7947000	10848600	12807000	13395600	13395600	12130200
2001	QM	G	12076200	4255200	2145500	2883750	2311200	6159910	11829730	12308235	24234165	12285065	13413600	11934205

Pod Id	Permit	Cert	Priority	Twntshp	Range	Sctn	Use	Rate	P/A/S	Source	Tributary To
36348	G 11762	0	5/4/1992	15S	12E	15	QM	3 C	A	WELL 3	DESCHUTES R

Water Year	Use	Units	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep
2000	QM	G	8213400	1800	1800	0	14400	3852000	2104200	3391200	6633000	24193800	13401000	6031800
2001	QM	G	457200	432000	0	0	0	3508600	1658310	2075370	3963725	4587300	5445000	3444055

$24,234,165 \div 30 \text{ days} = 807,805.5 \text{ gpd}$
 $807,805.5 \div 24 \text{ hrs} = 33,658.97 \text{ gph}$
 $33,658.97 \div 60 \text{ min} = 560.97 \text{ gpm}$
 $561.0 \text{ gpm} \div 448.83 = 1.25 \text{ cfs}$

Well # 2

$3,963,725 \div 30 \text{ days} = 132,124.2 \text{ gpd}$
 $132,124.2 \div 24 \text{ hrs} = 5,505.2 \text{ gph}$
 $5,505.2 \div 60 \text{ min} = 91.8 \text{ gpm}$
 $91.8 \text{ gpm} \div 448.83 = 0.205 \text{ cfs}$

Well # 3

Paul R. Cleary Director

Oregon Water Resources Department • 725 Summer St NE, Suite A • Salem, OR 97301-1271 • Phone: 503-986-0900 • Fax: 503-986-0903



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
www.wrd.state.or.us

December 26, 2002

CLINE BUTTE UTILITY CO
1140 NUTCRACKER RD
REDMOND OR 97756

REFERENCE: Permit #G11762 (Application File #G12905) and the Adoption of New Administrative Rules for Municipal and Quasi-Municipal Water Use Permit Extensions

Dear Municipal and/or Quasi-Municipal Water Use Permit Extension Applicant:

The Water Resources Commission has adopted new administrative rules that govern the processing of Municipal and Quasi-Municipal permit extension requests. The new rules are contained in Oregon Administrative Rules Chapter 690, Division 315 (OAR 690-315-0070 through 690-315-0100). If you wish to view a copy of the new Chapter 690, Division 315 Extension Rules, you may access the document from the Department's web page at:

http://www.wrd.state.or.us/cgi-bin/notices.pl?new_oars

The Department is preparing to implement the new Division 315 extension rules. As part of this process, we assessed pending permit extension applications and determined there is not sufficient information to meet the requirements of the new Division 315 standards. The Department, therefore, must receive the following:

1. **Please complete and return the enclosed new "Application for Extension of Time for Quasi-Municipal and Municipal Water Use Permits." *Note that the Department has also enclosed a copy of your previously submitted Extension of Time application and related attachments for your use.***

You may also access the "Application for Extension of Time for Quasi-Municipal and Municipal Water Use Permits" on the Department's website at:

<http://www.wrd.state.or.us/publication/forms/index.shtml>

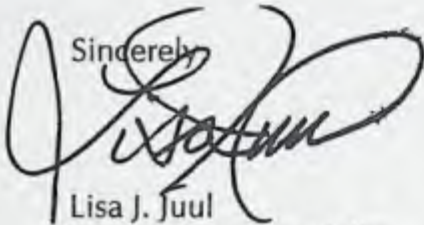
Please submit this information by **March 26, 2003**.

December 26, 2002
Page two of two

If you have an urgent need for the Department to process your extension request, please describe in a cover letter the circumstances that necessitate prompt review.

You may contact me by telephone at 503-378-8455, extension 272 if you have any questions concerning the new rules or our request for additional information.

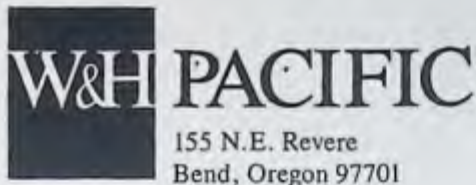
Sincerely,

A handwritten signature in black ink, appearing to read 'Lisa J. Juul', is written over the word 'Sincerely,'.

Lisa J. Juul
Water Rights Specialist
Water Rights Section

enclosures

cc: Application File #G12905 (Permit #G11762)



RECEIVED

SEP - 8 1997

WATER RESOURCES DEPT.
SALEM, OREGON

September 3, 1997

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

Re: Eagle Ridge Development Corporation
Permit No.: G-11762
Application No.: G-12905
W&H Pacific File No: 0526-0105

Gentlemen/Ladies:

I have enclosed an executed time extension application and a check in the amount of \$100.00 for the referenced quasi-municipal 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.

Quasi-municipal permit number G-11762 was issued to Eagle Crest in 1994, primarily to support the development of an expansion at 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 two wells, installed 50 horsepower and 300 horsepower pumps in the wells, constructed well house improvements including valves and controls, constructed a 300,000 gallon storage reservoir, constructed miles of water distribution piping, and developed approximately 350 homesites or dwelling units. Eagle Crest has also developed numerous recreational and commercial facilities, including an 18 hole golf course, recreation center, pro shop, hotel expansion, conference center and sales office.

Within the past year, Eagle Crest has developed approximately 150 homesites, including construction of 5 four-plex units, an eight-plex unit, a recreation center, hotel expansion, conference center and single family homesites. Approximately 13,000 lineal feet of 8" to 10" water mains and associated appurtenances have been installed to serve this development. Within the past year, Eagle Crest has invested approximately \$500,000 in water distribution system improvements at the Resort.



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SEP - 8 1997

WATER RESOURCES DEPT.
SALEM, OREGON

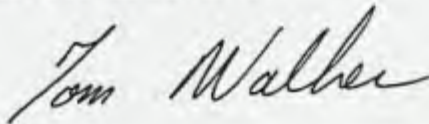
September 3, 1997
Page 2

Development at Eagle Crest II is continuing at a rapid pace, but even at this pace, additional years are required for the approximate 850 units in the Phase II project.

Please consider my request and never hesitate to contact me if you have questions or needs for additional information. Thank you for your assistance.

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

TW/klf

enclosure

cc: William D. Lyche

SEP - 8 1997

WATER RESOURCES DEPT.
SALEM, OREGONFile No. G-12905

APPLICATION FOR EXTENSION OF TIME

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Eagle Ridge Development Corporation

<u>PO Box 1215</u>	<u>Redmond</u>	<u>OR</u>	<u>97756</u>	<u>(541) 923-0807</u>
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, 1997, be extended to October 1, 1998, 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, 1999.

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: Installed approximately 13,000 lineal feet of water distribution piping and appurtenances and developed + 150 dwelling sites, a conference center, recreational facility, and hotel expansion.

(2) prior to this past year: Constructed two wells, a 300,000 gallon domestic water reservoir, developed approximately 200 dwelling sites, constructed a sales office, 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 to the attached cover letter)

(4) unable to complete construction and/or application of water within the permit time limits because _____

Wm D. [Signature]
signature

9/2/97
date

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



W&H PACIFIC

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

RECEIVED
MAY 18 1999
WATER RESOURCES DEPT.
SALEM, OREGON

May 13, 1999

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.

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

Cc: Alan VanVliet

51299law.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>	<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 the 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

page 3 of 3

RECEIVED

NOV 27 1998

**WATER RESOURCES DEPT.
SALEM, OREGON**

Permit Extension Ground Water Review

Date: APRIL 10, 2007
To: Doug Woodcock, Ground Water Section Manager
From: KIM FRENCH, Permit Extension Review
Subject: Ground Water Review for File G- 12905 / Permit G- 11762
(Date permit issued: MAY 31, 1994 (QUASI-MUNI))

The above referenced permit is currently being reviewed for an extension of time. Before I can determine whether or not an extension of time should be granted, a Ground Water review for this file is necessary. Special designations affecting this permit are as follows:

NOTE: Original Division 9 review completed by: KYLE GORMAN 12/3/92

- ☐ Located within a Ground Water Administrative Area (Critical, Limited, etc.)
- ☐ 5-Year Limited Permit
- ☐ Other:
- ☐ None (no special designations)

For Ground Water / Hydrology Staff Use:

Please answer the following questions. If necessary, attach an additional sheet.

1. Does the ground water source under this permit have the potential for substantial interference with surface water? N/A
[NOTE: Applies ONLY to Municipal permits issued before November 2, 1998 - see OAR 690-315-0080(1) & (2)]
2. Are there ground water supply concerns relevant to this extension of time that the Department should consider? Probably not

[NOTE: Does NOT apply to Quasi- Municipal or Municipal permits issued before November 2, 1998 - see OAR 690-315-0080(5)]

3. KEY Should the Department establish a new reference level for water level declines due to the failure of permittee to submit annual measurements? NO Assign reference levels
NO Modify
4. Should any additional conditions be added to this permit? YES - modified
KEY decline condition on permit
Groundwater Condition 7H: See Memo 7-8-07
5. Other issues or concerns? Quality of water level measurements,
KEY DOA #1 location, decline condition triggered

Memorandum

July 10, 2007

TO: Kim French

FROM:  Ken Lite, Hydrogeologist

SUBJECT Groundwater Review for G-11762 Extension

I offer the following ground-water related observations for Groundwater Permit G-11762.

First, the location of POA #1 is approximately 1600- feet southwest of the location identified on the permit (G-11762). I am not aware of a permit amendment that addresses the change in location.

Second, the water-level data currently being collected at all three wells on the permit do not reflect the regional trend (over 10- feet of decline since 1994) that occurs at our State Observation Wells in the area (see attached graph). I suspect the cause is related to the method of data collection at the permitted wells, specifically, the airline measurements.

Third, the suspect water-level measurements make assigning (decline) reference levels based on the permit holder's data (a condition on the permit), problematic.

Finally, the decline condition (10- feet total decline) on the permit has been triggered, based on data from a nearby OWRD State Observation Well. However, it is my opinion that much of the decline is related to climate (e.g. reduced natural recharge).

I have been in contact with Tom Walker (the permit holder's agent), in an effort to resolve the water-level measurement discrepancies at the Eagle Crest wells. Mr. Walker has worked with Eagle Crest staff in reviewing their data collection procedures. However, the data discrepancy has not been resolved.

I recommend the following conditions (see attached example): 1. Modify the current ^{weu^g} decline condition on the permit to assign reference water levels as follows: POA #1: 312' (well log); POA #2: 518' (1992 pump test); POA #3: 518' (1992 pump test); 2. Modify the current decline condition on the permit to allow only manual measurement techniques such as electric tape or steel tape be used for their water-level measurements.

Well Location

15.00S12.00E14C00

Oregon Water Resources Department Well Log ID

DESC 3581

Oregon Water Resources Department State Observation Well Number

1317

Well depth, in feet below land surface

303.00

Land surface elevation, in feet above mean sea level

2975

Primary use of well

DOMESTIC

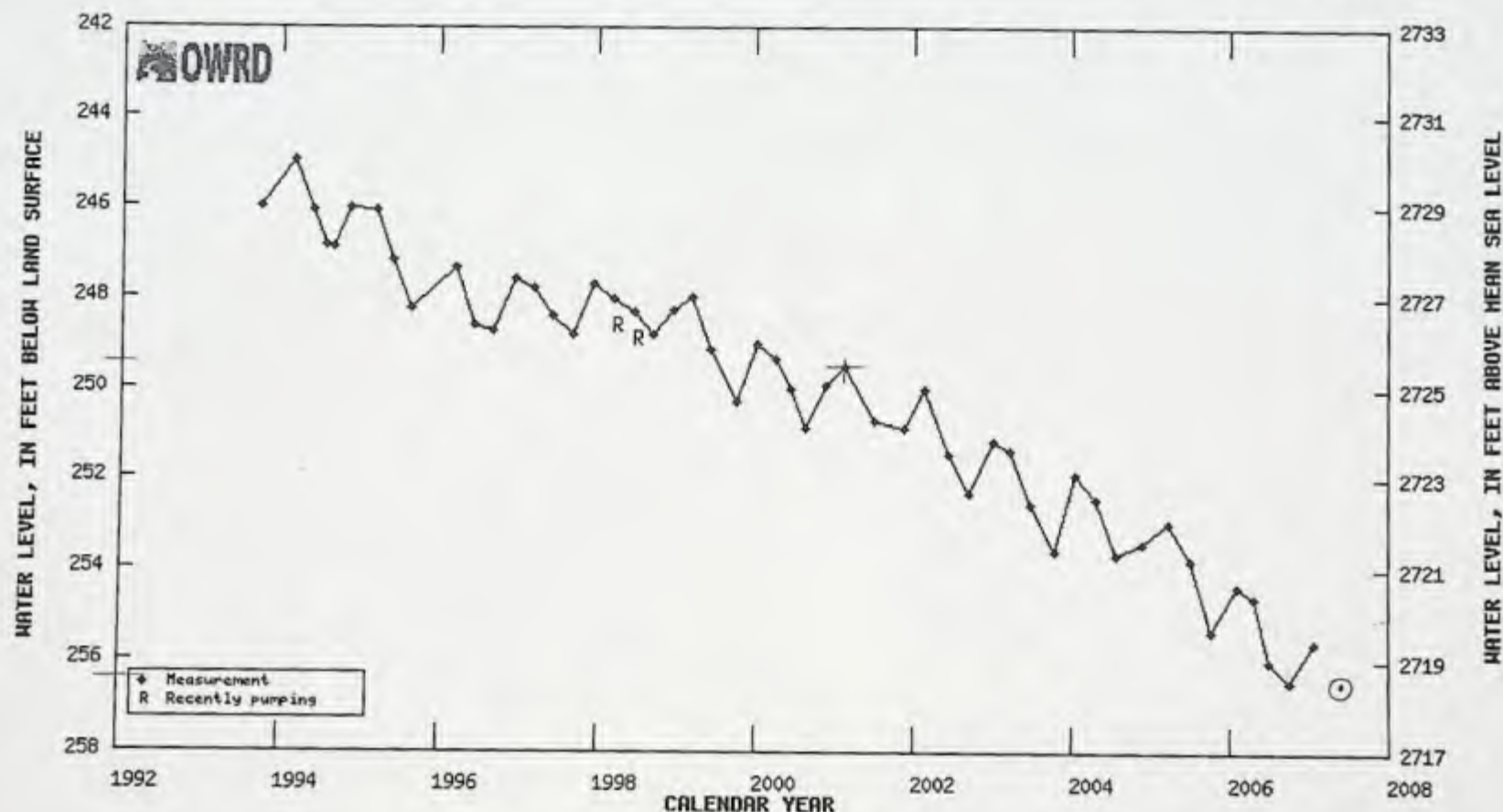


Table showing water-level data for State Well DESC 3581, State Observation Well # 1317

Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The 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 10 or more feet over any period of years, when 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 10-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 levels for water-level declines shall be the first (March 1995) or second annual (March 1996), whichever is higher, 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.

Measurements shall only be made using an electric tape or steel tape.

are as follows:
POA #1: 312'; POA #2:
518'; POA #3: 518'

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.

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

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

Actual construction work shall begin on or before May 31, 1995 and shall be completed on or before October 1, 1997. Complete application of water shall be made on or before October 1, 1998.

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

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

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

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

RECEIVED

APR 03 2007

WATER RESOURCES DEPT
SALES & REG.

7N ANNUAL MEASUREMENT CONDITION (MODIFIED)

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The Department requires the water user to measure and report annual static water levels for each well on the permit. Or, the water user can measure other wells in close proximity to the permitted wells, if the Department's Groundwater Staff determines that the substitute wells will provide adequate data to assess the impacts from the permitted wells. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

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The permittee shall submit an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. Reference water-level measurements for determining water-level declines on this permit are as follows: POA #1: 312'; POA #2: 518'; POA #3: 518'. Or, the first annual measurements at the substitute observations wells will establish the reference levels against which future measurements will be compared. The Director may require the user to measure and report additional water levels each year if more data are needed to evaluate the aquifer system.

Deleted: The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data.

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

Deleted: with equipment

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

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

Deleted: any of the following events occur

- C. Annual water-level measurements reveal a water-level decline of 10 or more feet;

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

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

Deleted: 25

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

Doug,

8-21-2007

This is what I propose for the
G-11762 extension (Eagle Crest).

- Ken

Water Right Conditions Tracking Slip

Groundwater/Hydrology Section

FILE # # G-11762

ROUTED TO: Kim French

TOWNSHIP/

RANGE-SECTION: Eagle Crest

CONDITIONS ATTACHED?: ☒ yes ☒ no

REMARKS OR FURTHER INSTRUCTIONS:

See Memo 7-~~8~~¹⁸-07

modify current decline condition
to address issues.

Reviewer: K. Lite



Oregon

John A. Kitzhaber, M.D., Governor

April 17, 2001

Water Resources Department

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

Cline Butte Utility Co.
1140 Nutcracker Rd
Redmond, OR 97756

Reference: File G-12905

The assignment by deed to you of Permit G-11762 has been filed in the records of the Water Resources Department. Our records have been changed accordingly.

Receipt number 43400 covering the \$50 recording fee has been sent to W & H Pacific Inc.

Sincerely,

Dallas S. Miller
Water Rights Specialist

Enclosure

cc: Watermaster #11
Data Center/OWRD
Jerol Andres, President if Eagle Ridge, PO Box 1215, Redmond, OR 97756
W & H Pacific Inc., 920 SW Emkay, Suite C100, Bend, OR 97702



REQUEST FOR ASSIGNMENT

I, (permit holder, applicant) Jerol Andres, President of Eagle Ridge Development Corporation
P.O. Box 1215 Redmond, OR 97756 (541) 923-0807
 (mailing address) (city) (state) (zip) (phone)

CHECK ONE

☒ - hereby assign all my interest in and to application/permit;

☐ - hereby assign all my interest in and to a portion of application/permit (include a map showing portion of application assigned);

☐ - hereby assign a portion of my interest in and to the application/permit;

RECEIVED

FEB 15 2001

Application # G-12905, Permit # G-11762;

OR GR Statement # _____, GR Certificate of Registration # _____
 filed in the office of the Water Resources Director, TO:

WATER RESOURCES DEPT.
 SALEM, OREGON

Cline Butte Utility Company (541) 504-2305
 (name of new owner) (phone #)
1140 Nutcracker Road Redmond, OR 97756
 (address) (city) (state) (zip)

(Note: If there are other owners of the property described in this Application, Permit of Certificate of Groundwater Registration you must attach a list of their names and addresses to this form.)

I hereby certify that I have notified all other owners of the property described in this Application, Permit or Certificate of Registration of this request for assignment.

Witness my hand this 8th day of February, 2001.

applicant/permit holder Jerol Andres

applicant/permit holder _____

PLEASE DO NOT WRITE IN THIS BOX

STATE OF OREGON, h
 County of Marion, h
 I certify that the within was
 received by me on the 15 day of
Feb, 2001 at 8 o'clock
A m., and was recorded in the
 Miscellaneous Records Vol: 8
 Page 876
Water Resources Director

The completed assignment must be submitted to the Water Resources Department together with a recording fee of \$25. Additional pages will cost \$5 per page.

WATER RESOURCES DEPARTMENT
 158 12TH STREET NE
 SALEM, OREGON 97310-0210

m:\groups\wr\support\janet\forms\assignment request

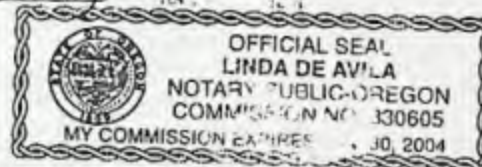
OK
 DSM

STATE OF OREGON, COUNTY OF DESCHUTES) SS.

On this 8th day of February, 2008, before me, the undersigned a Notary Public in and for said County and State, personally appeared Terol Andares personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument and acknowledged that she/he executed the foregoing instrument to the voluntary act and deed.

Subscribed and sworn to before me this 8th day of February, 2008.

Linda De Avila



**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **43400**

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

INVOICE # _____

RECEIVED FROM: W4H Pacific Inc
BY: _____

APPLICATION	<u>6-12905</u> <u>6-14859</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 24.72 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 50.00

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)

\$ 50.00

(New) TC162 DEPOSIT LIAB. (IDENTIFY)

\$

WATER RIGHTS:

EXAM FEE

RECORD FEE

0201 SURFACE WATER

\$

0202

\$

0203 GROUND WATER

\$

0204

\$

0205 TRANSFER

\$

0206

\$

WELL CONSTRUCTION

EXAM FEE

LICENSE FEE

0218 WELL DRILL CONSTRUCTOR

\$

0219

\$

LANDOWNER'S PERMIT

0220

\$

OTHER (IDENTIFY)

0437 WELL CONST. START FEE

0211 WELL CONST START FEE

\$

CARD #

0210 MONITORING WELLS

\$

CARD #

OTHER (IDENTIFY)

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 # **43400**

DATED: 3-1-01 BY: S. Henderson

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

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **15637**

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

INVOICE # _____

RECEIVED FROM: W & H Pacific INC.
BY: _____

APPLICATION	9/2905
PERMIT	11762
TRANSFER	

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

TOTAL REC'D \$ 100.

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)

\$ 10.

(New) TC165 DEPOSIT LIAB. (IDENTIFY)

\$

(Existing) TC168

WATER RIGHTS:

EXAM FEE

RECORD FEE

0201 SURFACE WATER

\$

0202

\$

0203 GROUND WATER

\$

0204

\$

0205 TRANSFER

\$

0206

\$

WELL CONSTRUCTION

EXAM FEE

LICENSE FEE

0218 WELL DRILL CONSTRUCTOR

\$

0219

\$

LANDOWNER'S PERMIT

0220

\$

OTHER (IDENTIFY)

0437 WELL CONST. START FEE

0211 WELL CONST START FEE

\$

CARD #

0210 MONITORING WELLS

\$

CARD #

OTHER (IDENTIFY)

0539 LOTTERY PROCEEDS

1302 LOTTERY PROCEEDS

\$

0467 HYDRO ACTIVITY

LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)

\$

0231 HYDRO LICENSE FEE (FW/WRD)

\$

HRDRO APPLICATION

\$

RECEIPT # **15637**

DATED: 9-2-97

BY: K. Bushnell

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



RECEIVED

SEP - 8 1997

WATER RESOURCES DEPT.
SALEM, OREGON

September 3, 1997

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

Re: Eagle Ridge Development Corporation
Permit No.: G-11762
Application No.: G-12905
W&H Pacific File No: 0526-0105

Gentlemen/Ladies:

I have enclosed an executed time extension application and a check in the amount of \$100.00 for the referenced quasi-municipal 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.

Quasi-municipal permit number G-11762 was issued to Eagle Crest in 1994, primarily to support the development of an expansion at 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 two wells, installed 50 horsepower and 300 horsepower pumps in the wells, constructed well house improvements including valves and controls, constructed a 300,000 gallon storage reservoir, constructed miles of water distribution piping, and developed approximately 350 homesites or dwelling units. Eagle Crest has also developed numerous recreational and commercial facilities, including an 18 hole golf course, recreation center, pro shop, hotel expansion, conference center and sales office.

Within the past year, Eagle Crest has developed approximately 150 homesites, including construction of 5 four-plex units, an eight-plex unit, a recreation center, hotel expansion, conference center and single family homesites. Approximately 13,000 lineal feet of 8" to 10" water mains and associated appurtenances have been installed to serve this development. Within the past year, Eagle Crest has invested approximately \$500,000 in water distribution system improvements at the Resort.



RECEIVED

SEP - 8 1997

WATER RESOURCES DEPT.
SALEM, OREGON

September 3, 1997

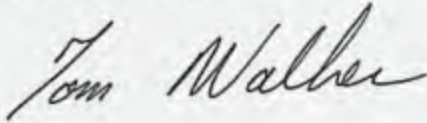
Page 2

Development at Eagle Crest II is continuing at a rapid pace, but even at this pace, additional years are required for the approximate 850 units in the Phase II project.

Please consider my request and never hesitate to contact me if you have questions or needs for additional information. Thank you for your assistance.

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

TW/klf

enclosure

cc: William D. Lyche

RECEIVED

SEP - 8 1997

WATER RESOURCES DEPT.
SALEM, OREGONFile No. G-12905

APPLICATION FOR EXTENSION OF TIME

TO THE WATER RESOURCES DIRECTOR OF OREGON

I, Eagle Ridge Development Corporation

<u>PO Box 1215</u>	<u>Redmond</u>	<u>OR</u>	<u>97756</u>	<u>(541) 923-0807</u>
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, 1997, be extended to October 1, 1998, 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, 1999.

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: Installed approximately 13,000 lineal feet of water distribution piping and appurtenances and developed ± 150 dwelling sites, a conference center, recreational facility, and hotel expansion.

(2) prior to this past year: Constructed two wells, a 300,000 gallon domestic water reservoir, developed approximately 200 dwelling sites, constructed a sales office, 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 to the attached cover letter)

(4) unable to complete construction and/or application of water within the permit time limits because _____

Wm D. [Signature]
signature

9/2/97
date

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



OREGON WATER RESOURCES DEPARTMENT
258 12TH STREET NE
SALEM OR 97310-0210



97310-0210





2000

Oregon Water Resources Department
October 2000 through September 2001
Annual Water Use - Monthly Quantities Form

2001



612905

USER-ID 8034

ECMA

Facility POD-ID	well 1 36346 DM	well 2 36347 DM	well 3 36348 DM		
October - 2000	0	12,076,200 G	457,200 G		
November - 2000	0	4,255,200 G	432,000 G		
December - 2000	0	2,145,500 G	0		
January - 2001	0	2,883,750 G	0		
February - 2001	0	2,311,200 G	0		
March - 2001	0	6,159,910 G	3,508,500 G		
April - 2001	0	11,857,790 G	1,658,310 G		
May - 2001	0	12,308,295 G	2,075,370 G		
June - 2001	0	24,234,165 G	3,963,725 G		
July - 2001	0	12,235,025 G	4,537,300 G		
August - 2001	0	13,413,600 G	5,445,000 G		
September - 2001	0	11,934,205 G	3,444,055 G		
TOTAL *	0				

* 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 meter. If use is irrigation, total number acres irrigated _____

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

Alan Van Vleet
Signature

Dir of Const.
Title

ECMA
Reporting Entity

1/29/02
Date

Eagle Crest Master Association

RECEIVED
FEB 01 2002
WATER RESOURCES DEPT.
SALEM, OREGON

File

STATE OF OREGON
COUNTY OF DESCHUTES
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE RIDGE DEVELOPMENT CORPORATION
P.O. BOX 1215
REDMOND, OREGON 97756

503-923-0807

to use the waters of THREE WELLS in the DESCHUTES RIVER BASIN for QUASI-MUNICIPAL USE.

This permit is issued approving Application G-12905. The date of priority is MAY 4, 1992. The use is limited to not more than 3.0 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

SW 1/4 NW 1/4, SECTION 14, SW 1/4 SE 1/4, SECTION 15, T 15 S, R 12 E, W.M.; WELL 1 - 120 FEET NORTH AND 980 FEET EAST FROM THE W 1/4 CORNER OF SECTION 14, WELL 2 - 962 FEET NORTH AND 823 FEET EAST, WELL 3 - 1009 FEET NORTH AND 802 FEET EAST, BOTH FROM THE S 1/4 CORNER OF SECTION 15.

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

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

SW 1/4 SW 1/4
SECTION 11
SW 1/4 SW 1/4
SECTION 13
W 1/2
SE 1/4
SECTION 14
E 1/2
SECTION 15
N 1/2 NE 1/4
SE 1/4 NE 1/4
SECTION 22
N 1/2
N 1/2 SE 1/4
SECTION 23
W 1/2 W 1/2
SECTION 24

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

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

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director.

Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The 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 10 or more feet over any period of years, when 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 10-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 first (March 1995) or second annual (March 1996), whichever is higher, 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.

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.

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

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

Actual construction work shall begin on or before May 31, 1995 and shall be completed on or before October 1, 1997. Complete application of water shall be made on or before October 1, 1998.

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

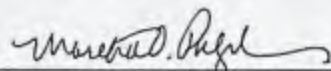
This permit is for beneficial use of water without waste. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

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

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

The Water Resources Commission has found that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest on April 20, 1994.

Issued this date, May 3/ , 1994.



Water Resources Department
Martha O. Pagel
Director



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

April 14, 2006

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

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

RECEIVED

APR 17 2006

WATER RESOURCES DEPT
SALEM, OREGON

Gentlemen/Ladies:

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

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

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

**EAGLE CREST WELLS
WATER LEVEL REPORTING**

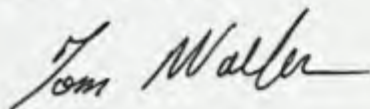
Owner's Well Designation	Original Owner	Well Log Startcard #	Well Depth	Date Drilled	Casing Size	Driller	Permit #/ Application #	Static Water Level	Idle Period
ECI Well #2	Neil Chase	—	330'	8/20/79	10"	Lewis & Clark Drilling	G-10530 G-11387 <i>DESC 3614</i>	246'	6 hrs
ECI Well #3	Eagle Crest Resort	5310/8050	290'	8/18/89	12"	Crawford Well Drilling	G-10957 G-11824	245.5'	14 days
ECII Well #6	Eagle Ridge Dev. Corp.	36697	800'	2/20/92	14"	STACO	G-11762 G-12905 <i>DESC 198</i>	523'	30 days ✓
ECII Well #7	Eagle Ridge Dev. Corp.	34267	800'	10/11/91	6"	STACO	G-11762 G-12905 <i>DESC 1083</i> DESC 1083	523'	30 days ✓

ECII Well #8	Eagle Ridge Dev. Corp.	89252	600'	4/22/98	14"	STACO	G-11762 G-12905 <i>DESC 51680</i>	315'	124 days
EC III Well #9	Eagle Crest, Inc.	111252	736	11/15/01	14"	STACO	G-13819 G-14857	508'	6.5 hours

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

Sincerely,

W&H Pacific, Inc.



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

Cc: Alan VanVliet
Ric Kuss

RECEIVED

APR 17 2006

WATER RESOURCES DEPT
SALEM, OREGON

Permit G-10530**Well #3**

2006	G	9388700.0	905700.0	118900.0	0.0	2761600.0	0.0	345900.0	4841700.0	18256700.0	18860200.0	18557600.0	8493700.0
2005	G	6023400.0	206400.0	19900.0	0.0	0.0	203500.0	4600.0	711600.0	0.0	16677500.0	20546000.0	19390500.0
2004	G	81500.0	0.0	2000.0	0.0	0.0	10159000.0	7031000.0	0.0	26264.0	17932800.0	14321100.0	11891800.0

Well #2

2006	G	6250000.0	1899000.0	2326000.0	1801000.0	1730000.0	2417000.0	3900000.0	1092100.0	13678000.0	17928000.0	15460000.0	14869000.0
2005	G	9116000.0	1412000.0	2116000.0	2180000.0	1913000.0	2910000.0	6028000.0	9478000.0	14913000.0	18458000.0	17531000.0	14620000.0
2004	G	12062000.0	1642000.0	1203000.0	1912000.0	1641000.0	3540865.0	9233000.0	13565000.0	15062000.0	17404000.0	17016000.0	14658000.0

Permit G-11762**Well #6**

2006	G	5361000.0	0.0	0.0	0.0	29000.0	2812000.0	9748000.0	15307000.0	17644000.0	27174000.0	18732000.0	16495000.0
							0		0	0	0	0	0
2005	G	7821000.0	1339000.0	0.0	0.0	469000.0	6724000.0	8140000.0	8276000.0	17373000.0	22957000.0	19248000.0	12852000.0
			0				0			0	0	0	0
2004	G	10013000.0	541000.0	172000.0	13000.0	0.0	6191000.0	13928000.0	12051000.0	19578000.0	25736000.0	15242000.0	9701000.0
		0					0	0	0	0	0	0	
2003	G	9539000.0	1636000.0	1166000.0	503000.0	624000.0	1972000.0	4855000.0	11209000.0	16314000.0	19702000.0	19582000.0	16727000.0
			0	0			0		0	0	0	0	0
2002	G	10903140.0	3750230.0	0.0	1545000.0	1736000.0	992000.0	8518000.0	11623620.0	14491000.0	19569000.0	19696000.0	16933000.0
		0	0		0	0			0	0	0	0	0
2001	G	12076200.0	4255200.0	2145500.0	2883750.0	2311200.0	6159910.0	11829730.0	12308235.0	24234165.0	12285065.0	13413600.0	11934205.0
		0	0	0	0	0	0	0	0	0	0	0	0
2000	G	11545200.0	3704400.0	3623400.0	3492000.0	3268800.0	4069800.0	7947000.0	10848600.0	12807000.0	13395600.0	13395600.0	12130200.0
		0	0	0	0	0	0		0	0	0	0	0

Well #7

2006	G	2346800.0	0.0	0.0	0.0	0.0	0.0	760000.0	486300.0	5618100.0	8070900.0	2657600.0
------	---	-----------	-----	-----	-----	-----	-----	----------	----------	-----------	-----------	-----------

2005 G	0.0	0.0	0.0	0.0	295600.0	0.0	0.0	0.0	0.0	6361600.0	10080200.0	2961400.0
2004 G	0.0	100.0	0.0	345300.0	0.0	1730200.0	26900.0	11195000.0	1459200.0	2974800.0	3437200.0	0.0
2002 G				1743600.0	1735500.0	2817100.0	6806900.0	12869000.0	12340700.0	14395000.0	14380500.0	15321000.0
2001 G	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
2000 G	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Well #8

2006 G	4696992.0	334647.0	321000.0	0.0	0.0	234167.0	4359447.0	9638332.0	9983429.0	16529121.0	13571750.0	9476257.0
2005 G	3949636.0	86121.0	0.0	0.0	0.0	2443968.0	3715173.0	4471392.0	8985829.0	15551842.0	12189793.0	13167716.0
2004 G	9663077.0	9024000.0	230219.0	0.0	0.0	2754697.0	4861010.0	7967389.0	10433143.0	14242601.0	12751664.0	6645197.0
2003 G	652000.0	0.0	0.0	2669500.0	661243.0	4451200.0	328000.0	4822900.0	12765600.0	21217100.0	13874700.0	14535600.0
2002 G	703375.0	110885.0	1841280.0	594000.0	0.0	5514900.0	182000.0	7749080.0	6692900.0	9199700.0	8318400.0	3899400.0
2001 G	457200.0	432000.0	0.0	0.0	0.0	3508600.0	1658310.0	2075370.0	3963725.0	4587300.0	5445000.0	3444055.0
2000 G	8213400.0	1800.0	1800.0	0.0	14400.0	3852000.0	2104200.0	3391200.0	6633000.0	24193800.0	13401000.0	6031800.0



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1266
503-986-0900
FAX 503-986-0904

April 6, 2007

W & H Pacific
Attn: Tom Walker
920 SW Emkay, Suite C-100
Bend, OR 97702

Re: Cline Butte Utility Company
Application No. G-12905
Permit No. G-11762
Application for Extension of Time
WHP File No.: 31250.1005

Dear Mr. Walker,

We received the Application for Extension of Time that you submitted for Cline Butte Utility Company, but we determined that on 9/8/97 they submitted an application to us and had paid the fees for that application. That application was put on hold. Therefore, we are returning the check in the amount of \$250.00 for the application fees. We are processing the application according to the Reimbursement Authority Application that you also submitted.

Please feel free to contact us if you have any questions.

Regards,

Kim R. French
Permit Extensions Specialist

cc: **File G-12905**
Cline Butte Utility Company, 1230 Golden Pheasant, Redmond, OR 97756

Walker

STATE OF OREGON
COUNTY OF DESCHUTES
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE RIDGE DEVELOPMENT CORPORATION
P.O. BOX 1215
REDMOND, OREGON 97756

503-923-0807

to use the waters of THREE WELLS in the DESCHUTES RIVER BASIN for QUASI-MUNICIPAL USE.

This permit is issued approving Application G-12905. The date of priority is MAY 4, 1992. The use is limited to not more than 3.0 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

SW 1/4 NW 1/4, SECTION 14, SW 1/4 SE 1/4, SECTION 15, T 15 S, R 12 E, W.M.; WELL 1 - 120 FEET NORTH AND 980 FEET EAST FROM THE W 1/4 CORNER OF SECTION 14, WELL 2 - 962 FEET NORTH AND 823 FEET EAST, WELL 3 - 1009 FEET NORTH AND 802 FEET EAST, BOTH FROM THE S 1/4 CORNER OF SECTION 15.

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

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

SW 1/4 SW 1/4
SECTION 11
SW 1/4 SW 1/4
SECTION 13
W 1/2
SE 1/4
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E 1/2
SECTION 15
N 1/2 NE 1/4
SE 1/4 NE 1/4
SECTION 22
N 1/2
N 1/2 SE 1/4
SECTION 23
W 1/2 W 1/2
SECTION 24

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

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

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director.

Application G-12905

Water Resources Department

PERMIT G-11762 APR 13 2007

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WATER RESOURCES DEPT
SALEM, OREGON

Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The 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 10 or more feet over any period of years, when 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 10-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 first (March 1995) or second annual (March 1996), whichever is higher, 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.

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.

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

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

Actual construction work shall begin on or before May 31, 1995 and shall be completed on or before October 1, 1997. Complete application of water shall be made on or before October 1, 1998.

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

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

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

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

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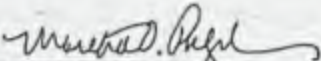
APR 03 2007

WATER RESOURCES DEPT
SALEMAN, WASH.

PAGE THREE

The Water Resources Commission has found that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest on April 20, 1994.

Issued this date, May 3/ , 1994.


Water Resources Department
Martha O. Pagel
Director

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APR 03 2007

WATER RESOURCES DEPT
SALEM, OREGON

Application G-12905 Water Resources Department
Basin 5 Volume 1 Deschutes River & Misc.
MGMT.CODE 4GG

PERMIT G-11762
District 11



W&H PACIFIC

155 N.E. Revere
Bend, Oregon 97701

September 3, 1997

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

Re: Eagle Ridge Development Corporation
Permit No.: G-11762
Application No.: G-12905
W&H Pacific File No: 0526-0105

Gentlemen/Ladies:

I have enclosed an executed time extension application and a check in the amount of \$100.00 for the referenced quasi-municipal 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.

Quasi-municipal permit number G-11762 was issued to Eagle Crest in 1994, primarily to support the development of an expansion at 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 two wells, installed 50 horsepower and 300 horsepower pumps in the wells, constructed well house improvements including valves and controls, constructed a 300,000 gallon storage reservoir, constructed miles of water distribution piping, and developed approximately 350 homesites or dwelling units. Eagle Crest has also developed numerous recreational and commercial facilities, including an 18 hole golf course, recreation center, pro shop, hotel expansion, conference center and sales office.

Within the past year, Eagle Crest has developed approximately 150 homesites, including construction of 5 four-plex units, an eight-plex unit, a recreation center, hotel expansion, conference center and single family homesites. Approximately 13,000 lineal feet of 8" to 10" water mains and associated appurtenances have been installed to serve this development. Within the past year, Eagle Crest has invested approximately \$500,000 in water distribution system improvements at the Resort.

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APR 03 2007

September 3, 1997

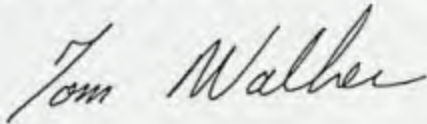
Page 2

Development at Eagle Crest II is continuing at a rapid pace, but even at this pace, additional years are required for the approximate 850 units in the Phase II project.

Please consider my request and never hesitate to contact me if you have questions or needs for additional information. Thank you for your assistance.

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

TW/klf

enclosure

cc: William D. Lyche

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APR 03 2007

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

<u>PO Box 1215</u>	<u>Redmond</u>	<u>OR</u>	<u>97756</u>	<u>(541) 923-0807</u>
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, 1997, be extended to October 1, 1998, 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, 1999.

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: Installed approximately 13,000 lineal feet of water distribution piping and appurtenances and developed + 150 dwelling sites, a conference center, recreational facility, and hotel expansion.

(2) prior to this past year: Constructed two wells, a 300,000 gallon domestic water reservoir, developed approximately 200 dwelling sites, constructed a sales office, 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 to the attached cover letter)

(4) unable to complete construction and/or application of water within the permit time limits because _____

Wm D. [Signature]
signature

9/2/97
date

MAIL APPLICATION AND STATUTORY FEE OF \$100 FOR EACH PERMIT TO:

WATER RESOURCES DEPARTMENT
158 12TH ST NE
SALEM, OREGON 97310

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APR 03 2007

WATER RESOURCES DEPT
SALEM, OREGON

**WATER RESOURCES DEPARTMENT
REIMBURSEMENT AUTHORITY ESTIMATE APPLICATION**

House Bill 2551(2003 Oregon Laws) authorizes the Oregon Water Resources Department to expedite or enhance regulatory processes voluntarily requested under the agreement. The voluntary agreement can be entered into with any person requesting services and agreeing to pay the Department's costs of providing the service.

The Department has established a pool of qualified contractors to perform expedited services for water right transfers, water right permits extensions, and water right certificates.

The purpose of this application is to obtain an estimate from the next qualified contractor in the appropriate pool. There is a non-refundable application fee of \$125.00 per request. The contractor will provide an estimate of the cost and of the time required to process and develop a recommendation on the request of a: (check one):

<u>REQUEST</u>	<u>TYPE</u>	<u>FILE NUMBER</u>
☐	Transfer Application	_____
☐	Certificate Request	_____
☒	Extension of Time Request	G-12905

<u>Applicant Information</u>		<u>Applicant's Representative/Contact</u>
Name: (Please Print)	Cline Butte Utility Co.	W & H Pacific
Address:	1230 Golden Pheasant	920 SW Emkay, Suite C-100
	Redmond, OR 97756	Bend, OR 97702
Phone:	541-504-2305	541-388-4255
Fax		541-388-4229
E-Mail Address:	alan@eagle-crest.com	twalker@whpacific.com

I understand the following:

- There is a non-refundable application fee of \$125.00 per request.
- That upon receipt of my non-refundable application fee in the amount of \$ 125.00, OWRD will assign my request to the next contractor in the pool of contractors performing expedited services.
- That this fee covers the copying, the mailing cost, as well as the cost for the contractor to evaluate and provide the estimate for processing of the request.
- That OWRD will provide all pertinent information to the assigned contractor within three (3) business days.
- That OWRD will, within fourteen (14) days, notify me in writing of the estimates of costs and time frame for the expedited service.
- That upon receiving the estimates I may agree or decline to enter into a formal contract to pay the estimated cost in advance to initiate the expedited service.
- An incomplete or inaccurate application may delay the process and increase the cost to process my request.
- Expedited processing does not guarantee a favorable review of my request.
- Send completed Application and payment to:

**OWRD – Reimbursement Authority Program
725 Summer St. NE, Suite A
Salem, OR 97301-1266.**

I certify that I am the (check one) ☐ Applicant ☐ Applicant's Representative ☐ Other (Please specify) _____

Signature: Todd Samples

Name: Todd Samples

OWRD USE ONLY

Contractor Assigned: <u>AWM</u>	Total Amount Paid: \$ <u>125</u>
OWRD Approval: _____	

67 Copies
4/11/2007
C.U.

RECEIVED

Revised: 6/2/04 **APR 03 2007**

WATER RESOURCES DEPT
SALEM, OREGON

File

STATE OF OREGON
COUNTY OF DESCHUTES
PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

EAGLE RIDGE DEVELOPMENT CORPORATION
P.O. BOX 1215
REDMOND, OREGON 97756

503-923-0807

to use the waters of THREE WELLS in the DESCHUTES RIVER BASIN for QUASI-MUNICIPAL USE.

This permit is issued approving Application G-12905. The date of priority is MAY 4, 1992. The use is limited to not more than 3.0 CUBIC FEET PER SECOND, or its equivalent in case of rotation, measured at the wells.

The wells are located as follows:

SW 1/4 NW 1/4, SECTION 14, SW 1/4 SE 1/4, SECTION 15, T 15 S, R 12 E, W.M.; WELL 1 - 120 FEET NORTH AND 980 FEET EAST FROM THE W 1/4 CORNER OF SECTION 14, WELL 2 - 962 FEET NORTH AND 823 FEET EAST, WELL 3 - 1009 FEET NORTH AND 802 FEET EAST, BOTH FROM THE S 1/4 CORNER OF SECTION 15.

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

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

SW 1/4 SW 1/4
SECTION 11
SW 1/4 SW 1/4
SECTION 13
W 1/2
SE 1/4
SECTION 14
E 1/2
SECTION 15
N 1/2 NE 1/4
SE 1/4 NE 1/4
SECTION 22
N 1/2
N 1/2 SE 1/4
SECTION 23
W 1/2 W 1/2
SECTION 24

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

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

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director.

Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The 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 10 or more feet over any period of years, when 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 10-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 first (March 1995) or second annual (March 1996), whichever is higher, 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.

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.

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

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

Actual construction work shall begin on or before May 31, 1995 and shall be completed on or before October 1, 1997. Complete application of water shall be made on or before October 1, 1998.

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

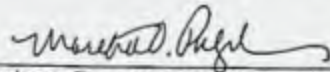
This permit is for beneficial use of water without waste. The water user is advised that new regulations may require use of best practical technologies or conservation practices to achieve this end.

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

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

The Water Resources Commission has found that the proposed use of water described by this permit, as conditioned, will not impair or be detrimental to the public interest on April 20, 1994.

Issued this date, May 3/ , 1994.



Water Resources Department
Martha O. Pagel
Director

September 21, 1998

Eagle Ridge Development Co.
PO Box 1215
Redmond, OR. 97756

With regard to the pump test requirements for the following well and its associated water right:

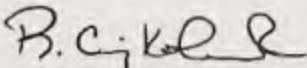
APP. #:G - 12905 PERMIT #: G-11762 USER-ID: 28021 POD-ID'S: 36346
36347
36348

Recently, while auditing groundwater files for the Deschutes Basin Study, we discovered a number of pump tests that were not accounted for by our Pump Test Program. I apologize on behalf of the department for this oversight and hope this has not caused any problems for you.

The Water Resources Department has reviewed and **accepted the pump test results you've submitted.** The Department requires no further testing at this time. However, you will be required to submit a static water level measurement of the well on the ten-year anniversary of the test that was conducted. If your permit or certificate includes a condition that requires annual static water level measurements, please continue to make and report these measurements unless otherwise instructed.

We appreciate your cooperation with this program. If you have any questions, please contact me at (503) 378-8455 ext. 289 or Mike Zwart at ext. 207. The Departments toll-free number is 1-800-624-3199.

Sincerely,



R. Craig Kohanek
Pump Test Coordinator



c: Water Rights Section

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

W&H PACIFIC155 N.E. Revere
Bend, Oregon 97701

Creative Solutions ... Superior Service

(503) 388-4255
Fax (503) 388-4229• Planning • Surveying
• Engineering • Landscape Architecture• Environmental
ServicesTo: KYLE GORMANDate: 12-2-92OREGON WATER RESOURCES DEPT.Project Number: 526-01-01GROUND WATER SECTIONProject Name: EAGLE CREST IIRegarding: WATER RIGHT APPROPRIATION
APPLICATION - OWRD FILE G-12905PLEASE NOTIFY US IMMEDIATELY
AT (503) 388-4255 IF THERE ARE ANY
PROBLEMS RECEIVING THIS
TRANSMISSION

We Are Sending:

☒ Attached☒ Facsimile7 Number Of Pages Including Cover☐ FAX #: 378-8130

These Are Transmitted:

☐ For Your Info/File☒ As Requested☐ For Review And Comment

Copied To:

BILL LYCHE

Copies	Description
<u>1</u>	<u>3-17-92 WHP INSPECTION REPORT</u>
<u>1</u>	<u>PRODUCTION WELL PUMP TEST DATA</u>
<u>1</u>	<u>OBSERVATION WELL PUMP TEST DATA</u>

Comments

KYLE,THE WELL PROBE USED ON THE OBSERVATION WELL
HAD BEEN BROKEN AND SPLICED. 280 FT SHOULD BE
SUBTRACTED FROM ALL OBSERVATION WELL READINGS.A COPY OF THIS INFORMATION WILL BE DELIVERED
TO YOUR BEND OFFICE THIS WEEK.PLEASE NEVER HESITATE TO CALL IF I CAN
BE OF FURTHER ASSISTANCE.

Signed

Tom Walker

**INSPECTION REPORT**

Project: Eagle Ridge Well
Well Test
526-0101

Date: March 17, 1992

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

Contractor: A&H Pump

Distribution: Bill Lyche

Well yield testing on the Eagle Ridge production well commenced this morning. Nancy Speaker, with David Newton & Associates, was present to direct monitoring activities. Bill Lyche was present, and three A&H employees were also on the site.

All pumping was completed in the 14 inch diameter production well, completed by Staco Well Services Inc. A&H utilized a diesel engine with a right angle drive and a Verti-Line 12 RM, 12 stage, "A" trim, series 1110 vertical turbine pump. Contractors used a micrometer propeller meter for flow measurements and standard well probes for water level measurements.

Water level measurements at the production well, were obtained with a well probe, inserted in a 3/4 inch PVC tubing. In addition, water level measurements were obtained from the original pilot hole, 35 feet to the south.

The pump was set at 646 feet.

I arrived at the site at 8:30 am and measured the static water level at 518.85 feet below the top of the casing. Contractors later measured the static level at 519.3 feet, measured at a point on the well head housing. This point on the well head housing was the basis for all recorded measurements during the test. This point on the housing is 13 inches above the top of the well casing.

The initial test started at 9:30 am. The flow rate was measured at 700 gpm after the column filled and pumping reached a steady state. An initial draw down of 4 1/2 inches was observed, followed by a recovery to approximately 3 inches. The initial test however, was interrupted at approximately 9:48 am, apparently due to stretch in the column and increased resistance in the pump bowls. Contractors adjusted the bowl clearance and then restarted the pump test at 10:00 am.

The initial flow rate for the second test was 750 gpm. We observed a draw down of approximately 4 inches. At 10:12 am, the flow rate was increased to 1,050 gpm. The draw down increased to 1 foot 8 inches and remained steady. When I left the project at 10:50 am, the draw down remained steady at 1 foot 8 inches, and the flow rate at 1,050 gpm.



**Eagle Ridge Well Test
Inspection Report
Page 2**

The contractors collected a sample of water at the initial start up today and observed no evidence of sediment, sand, or grit. Jack Abbas indicated some red cinder material was observed for approximately the first minute after yesterdays startup. Jack also indicated some surging of the well occurred as the pump was initially started. Again, the discharge cleared up after approximately one minute of run time.

We discussed the duration of the pump test. It was agreed the test will be terminated after 8 or 9 hours, if the draw down remains steady. Tentatively, Jack Abbas will increase the flow rate to approximately 1,200 gpm at 6:00 pm tonight. He will monitor water levels in the production well and the pilot well for approximately 1 hour and then end the test.

Owner _____ Address EAGLE RIDGE County DESCHUTES State OR
Date 3/18/92 Company performing test A 1 N Measured by _____
Well No. 1 Distance from pumping well _____ Type of test CONSTANT DISCHARGE Test No. 1

Measuring equipment

Time Data				Water Level Data				Discharge Data				Comments on factors affecting test data
Pump on: Date _____ Time _____ (H)	Pump off: Date _____ Time _____ (H)	Duration of aquifer test: _____	Pumping _____ Recovery _____	Static water level <u>514.3'</u>	Measuring point _____	Elevation of measuring point _____	How Q measured _____	Depth of pump/air line _____	Previous pumping? Yes _____ No _____	Duration _____ End _____		
Date	Clock time	Time since pump started t	Time since pump stopped t'	1/t	* Water level measurement	Correction or Conversion	Water level change s or s'	Discharge measurement	Rate			
10:00	0				514.3'				700 gpm			
10:01	1				520							
10:02	2				520 7/8"							
10:03	3				520 6/8"							
10:04	4				7"							
10:05	5				6 1/2"							
06	6				7"							
07	7				6 1/4"							
08	8				7"							
09	9				6 3/4"							
10	10				7 1/2"							
11	11				6 3/4"							
12	12				7 1/2"			1050 gpm		INCREASE TO 1050 GPM		
13	13				11"							
14	14				10 3/4"							
10:15	15				10 1/4"							
5:10	20				520 11 1/4"							
	25				520 10 3/4"							
	30				520 11"							
	35				11 1/4"							
	40				-							
	45				11"							
	50				11"							
	55				11 1/2"							
	60											
10	30 min				11"							
	90				11 1/2"							
	120				11 1/4"							
	150				11 1/2"							

AQUIFER TEST DATA

Owner _____ Address EAGLE RIDGE County DESCHUTES State OR
 Date 3/18/92 Company performing test A & H Measured by _____
 Well No. 1- Distance from pumping well _____ Type of test CONSTANT DISCHARGE Test No. 1

Measuring equipment _____

Time Data				Water Level Data				Discharge Data		Comments on factors affecting test data
Pump on: Date	Time	(t)		Static water level				How Q measured		
Pump off: Date	Time	(t')		Measuring point				Depth of pump/air line		
Duration of aquifer test:				Elevation of measuring point				Previous pumping? Yes No		
Pumping	Recovery							Duration	End	
Date	Clock time	Time since pump started t	Time since pump stopped t'	t/t'	Water level measurement *	Correction or Conversion	Water level s or s'	Discharge measurement	Rate	
		180			11 1/4"		1:00			
		210			11 1/4"					
		240			11 1/4"		2:00			
		270			11 1/4"		2:30			
		300			11 1/4"		3:00			
	HRS				11 1/4"		3:30			
	↓	6			11 1/4"		4:00			
		7			11 1/4"		4:30			
		8			11 1/4"		5:00			
		9			11 1/4"		5:30			
		10			11 1/4"		6:00			
		11			52' 4"		6:02	—	1200 GPM	
		12			4 1/4"		6:06			
		13			52' 1"		6:08			
		14			52' 1 1/2"		6:10			
		15			52' 1 1/2"		6:12			
		16			1 1/2"		6:14			
		17			1 1/2"		6:16			
		18			1 1/2"		6:18			
		19			1 1/2"		6:25			
		20			1 1/2"		6:30			
		21			1 1/2"		6:35			
		22			1 1/2"		6:40			
		23			1 1/2"		6:45			
		24			1 1/2"		6:50			
					52' 7 1/2"		6:51	1500	GPM	
					52' 5 1/2"		6:56	1500		
					52' 6"		6:58	1500		
					52' 5 1/2"		7:00	STOPPED		

AQUIFER TEST DATA

Owner _____ Address EAGLE RIDGE County DOUGHERT State OR
3/18/92 Company performing test AS H Measured by _____
 Well No. _____ Distance from pumping well 50' Type of test CONSTANT DISCHARGE Test No. 1
 Measuring equipment SW(180) - 799

Time Data				Water Level Data				Discharge Data		Comments on factors affecting test data
Pump on: Date	Time	(t)		Static water level				How Q measured		
Pump off: Date	Time	(t')		Measuring point				Depth of pump/air line		
Duration of aquifer test:				Elevation of measuring point				Previous pumping? Yes	No	
Pumping	Recovery							Duration	End	
Date	Clock time	Time since pump started	Time since pump stopped	START HERE	Water level measurement	Correction or Conversion	Water level	Water level change	Discharge measurement	Rate
3/18	0			2:41	798.65					70
	2				798.65					
	4				798.7					
	6				798.7					
	8				798.7					
	10				798.7					
	12									
	14				798.76					
	16				798.76					
	18				798.75					
	20				798.75					
	22				798.75					
	24				798.75					
	26				798.75					
	28				798.75					
	30				798.75					
	32									
	34									
	36				798.75					
	38									
	40									
	42									
	44									
	46				798.75					
	48									
	50				798.7					
	52									
	54									
	56									

NOTE: THE WELL PROBE USED FOR THESE MEASUREMENTS HAD BEEN SPLICED. SUBTRACT 280.00 FT FROM ALL MEASUREMENTS REFERENCE 3-24-92 WHP FIELD VERIFICATION

1/11/92

Oregon Water Utilities - Cline Butte Inc.
1230 Golden Pheasant
Redmond, OR 97756
G-12905

Oregon Water Utilities - Cline Butte Inc.
1230 Golden Pheasant
Redmond, OR 97756
G-12905

Oregon Water Utilities - Cline Butte Inc.
1230 Golden Pheasant
Redmond, OR 97756
G-12905

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **86933**

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

INVOICE # _____

RECEIVED FROM: Eagle Crest
BY: _____

APPLICATION	612905
PERMIT	
TRANSFER	

CASH: ☐ CHECK: # 48 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 125.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES 47119

4058 OTHER: (IDENTIFY) Reimbursement Authority

\$ _____
\$ 125.00

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

OVER THE COUNTER

0407 COPY & TAPE FEES

0410 RESEARCH FEES

0408 MISC REVENUE: (IDENTIFY) _____

TC162 DEPOSIT LIAB. (IDENTIFY) _____

0240 EXTENSION OF TIME

WATER RIGHTS:

0201 SURFACE WATER

0203 GROUND WATER

0205 TRANSFER

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

LANDOWNER'S PERMIT

OTHER (IDENTIFY) _____

EXAM FEE

\$ _____

\$ _____

\$ _____

EXAM FEE

\$ _____

0202

0204

0219

0220

RECORD FEE

\$ _____

\$ _____

LICENSE FEE

\$ _____

\$ _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE

\$ _____

0210 MONITORING WELLS

\$ _____

OTHER (IDENTIFY) _____

CARD # _____

CARD # _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)

0231 HYDRO LICENSE FEE (FW/WRD)

HYDRO APPLICATION

\$ _____

\$ _____

\$ _____

TREASURY

OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____

\$ _____

EIPT:

86933

DATED: 4/3/07

BY: [Signature]

TO: Water Rights Section 12-3, 1992
FROM: Groundwater/Hydrology Section K. Gorman
SUBJECT: Application G- 12905 Reviewer's Name

1. PER THE _____ Basin rules, one or more of the proposed POA's is/is not within _____ feet/mile of a surface water source (_____) and taps a groundwater source hydraulically connected to the surface water.
2. BASED UPON OAR 690-09 currently in effect, I have determined that the proposed groundwater use
 - a. _____ will, or } have the potential for substantial interference with the nearest surface water
 - b. ☒ will not } source, namely Deschutes River; or
 - c. _____ will, if properly conditioned, adequately protect the surface water from interference:
 - i. _____ The permit should contain condition #(s) _____;
 - ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. _____ The permit should be conditioned as indicated in item 4 below; or
 - d. _____ will, with well reconstruction, adequately protect the surface water from substantial interference.
3. BASED UPON available data, I have determined that groundwater for the proposed use
 - a. _____ will, or } likely be available in the amounts requested without injury to prior rights and/or
 - b. _____ will not } within the capacity of the resource; or
 - c. ☒ can, if properly conditioned, avoid injury to existing rights or to the groundwater resource;
 - i. ☒ The permit should contain condition #(s) 46;
 - ii. _____ The permit should contain special condition(s) as indicated in "Remarks" below;
 - iii. _____ The permit should be conditioned as indicated in item 4 below.
4.
 - a. _____ THE PERMIT should allow groundwater production from no deeper than _____ ft. below land surface;
 - b. _____ The permit should allow groundwater production from no shallower than _____ ft. below land surface;
 - c. _____ The permit should allow groundwater production only from the _____ groundwater reservoir between approximately _____ ft. and _____ ft. below land surface;
 - d. _____ Well reconstruction is necessary to accomplish one or more of the above conditions.
 - e. _____ One or more POA's commingle 2 or more sources of water. The applicant must select one source of water per POA and specify the proportion of water to be produced from each source.

REMARKS: Due to the anomalous condition of a such a high yielding aquifer yet areally seems quite small, locally, condition 46 is suggested so that the characteristics of the resource can be monitored. The proposed well in SWSW sec 14 T15S R12E should produce from a WB zone that has a potentiometric head difference of at least 250' from that of the elevation of the Deschutes River.

OVER →

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

5. THE WELL which is the point of appropriation for this application does not meet current well construction standards based upon: Desc 1083 or Pilot hole #1

- a. ☒ review of the well log;
b. ☐ field inspection by _____;
c. ☐ report of CWRE _____;
d. ☐ other: (specify) _____

6. THE WELL construction deficiency:

- a. ☐ constitutes a health threat under Division 200 rules;
b. ☐ commingles water from more than one groundwater reservoir;
c. ☐ permits the loss of artesian head;
d. ☐ permits the de-watering of one or more groundwater reservoirs; K.G. 4-8-93
e. ☒ other: (specify) ~~the bentonite seal was placed 10' greater than 18' feet. there should be a seal in the consolidated formation above the water bearing zone.~~

7. THE WELL construction deficiency is described as follows: _____

8. THE WELL a. ☐ was, or } constructed according to the standards in effect at the time of
b. ☐ was not } original construction or most recent modification.
c. ☐ I don't know if it met standards at the time of construction.

RECOMMENDATION:

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

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

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

Steve Appligato 2/17, 1992.
(Signature)

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

_____, 1992.
(Signature)

(WRFORM3/92)

please
copy & put in ^{when}
return to file
C 12905 (folder)
in cubicle
next to
Gerry Gordon
if you can not
locate, see me
or Ken Litch
Thx

-Bill Furr

W&H
PACIFIC



**EAGLE CREST
DOMESTIC WATER
SUPPLY SYSTEM**

MASTER PLAN UPDATE

JULY, 2002



**EAGLE CREST
DOMESTIC WATER SUPPLY SYSTEM**

MASTER PLAN UPDATE

JULY, 2002

Prepared For:

Cline Butte Utility Company
Post Office Box 1215
Redmond, Oregon 97756

Prepared By:

W&H Pacific, Inc.
920 SW Emkay Drive, Suite C-100
Bend, Oregon 97702
(541) 388-4255

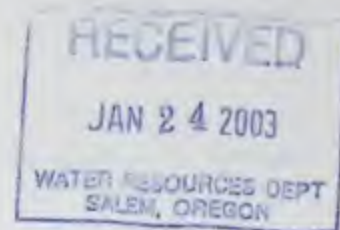


EXPIRES 6-30-04

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I. INTRODUCTION

A. PROJECT DESCRIPTION & LOCATION

Eagle Crest is a successful destination resort in Central Oregon. It is located on the Deschutes River approximately one mile south of the Sisters-Redmond Highway (Highway 126) and approximately four miles westerly of Redmond, Oregon. Access to the project is gained from Highway 126 and the Cline Falls Highway. (See Exhibit A).

The first phase of Eagle Crest is complete, and the second major phase (Eagle Crest II) is approximately $\frac{3}{4}$ built-out. This document examines the water supply for the on-going 710 acre expansion known as Eagle Crest II, located west of the Cline Falls Highway. In addition, this report will examine a third 480 acre phase, referred to as Eagle Crest III. Eagle Crest III is located westerly of Eagle Crest I and II. This Phase III expansion will continue the Eagle Crest tradition of creating a unique environment which maintains the natural beauty of the surroundings and promotes the highest quality development known to Central Oregon. The Eagle Crest II expansion will include up to 1200 single family homesites, multi-family units, and hotel rooms. Project amenities will include tennis courts, swimming pools, recreation centers, two 18-hole golf courses, bike paths, park, and significant open space areas. Eagle Crest III will add an additional 900 equivalent dwelling units.

B. WATER SYSTEM DESCRIPTION

The Cline Butte Water Company, with concern for economical and reliable development, recognized the necessity for a comprehensive water system master plan for the resort projects, and authorized W&H Pacific to proceed with the coordinated development planning for both sewer and water systems. An initial master plan was authorized in March of 1992, an update authorized in March of 1999 to consider the Eagle Crest III expansion, and a subsequent minor update was recently approved.

The water system will be constructed in conformance with standards of the Oregon State Health Division. All domestic water will be pumped from deep groundwater wells. The domestic system includes a ground level storage reservoir which will serve Phases I, II and III. Domestic consumption and fire protection will be given top priority through established water policy and design.

II. SUMMARY & RECOMMENDATIONS

At final project build-out, the water system for Eagle Crest will serve nearly 7,800 people, and will include six wells, a domestic water storage reservoir, one booster pumping station, surface water, lake storage, and approximately 16 miles of distribution piping. The domestic water consumption will be approximately 2.9 million gallons of water on a peak day, at full build-out. The required source contribution to meet this peak day demand is 2020 gpm.

Eagle Crest will irrigate approximately 500 acres of golf course turf in addition to a substantial amount of open space. The irrigation source requirement is approximately 3,400 gpm during the peak consumptive use period.

The combined domestic and irrigation source requirement equals 5,400 gpm at project build out. The existing wells, including the new well for Phase III should provide the necessary contribution.

Both irrigation and domestic demand will vary from hour to hour each day, and the water system must meet the peak instantaneous demands of each. A 300,000 gallon, ground level, domestic water reservoir

provides peaking storage, reliability and stability for the domestic system. Several surface lakes, constructed for the golf courses, provide the storage for the irrigation system. In addition, the domestic water reservoir provides redundant fire protection flows and storage for emergency conditions.

Fire protection flow requirements for Phase I were established at 750 gpm. To protect the larger structures in Phase I and Phase II and those proposed for Phase III, the fire flow recommendation has been increased to 1,500 gpm. This flow rate exceeds the requirements of the Deschutes County Rural Fire Protection District.

The Eagle Crest domestic water distribution system is designated as a community and public water system, by the Oregon State Health Division. The Health Division must review and approve all construction drawings prior to construction and approve the actual construction, through engineering records, prior to water delivery.

The domestic water distribution system will ultimately consist of approximately 16 miles of piping. The distribution system will be designed to assure adequate sizing to meet the ultimate project needs.

This Master Plan report summarizes a tremendous amount of research, calculations, and planning. However, the basic assumptions and recommendations on consumption, irrigation requirements, well yield, and system component adequacy must be carefully evaluated throughout the development process. It is strongly recommended that all system components be monitored and re-evaluated continuously as development occurs and system components are added.

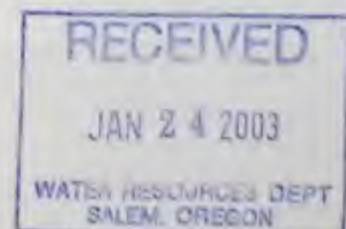
III. SCOPE OF STUDY

The following table outlines the scope of this study and establishes the basis for design of the proposed domestic and irrigation water supply system.

TABLE 1

**EAGLE CREST PHASES I, II, AND III
WATER SYSTEM DESIGN - STUDY SCOPE**

1. Domestic Water Consumption
2. Fire Protection Needs
3. Landscape Irrigation Requirement
4. Existing Wells
5. Projected Ultimate Well Needs
6. Domestic Water Storage Requirements
7. Design Criteria for Distribution Design
8. Water Rights
9. Water Conservation Recommendations



IV. WATER CONSUMPTION

A. FUTURE GROWTH

As noted, the Eagle Crest Destination Resort consists of three major phases, each of which is subject to Deschutes County land use approvals. Deschutes County Master Plan approvals stipulate a maximum number of dwellings or living units and stipulate the limits of resort development. This Master Plan document provides a thorough analysis of the entire project at build-out and prohibits continued growth of the resort, because of the restrictions imposed with land use approvals.

Most municipalities expect some rate of growth over the long term, and continued expansion of urban growth boundaries. A private destination resort, subject to strict land use approvals and limitations, is not subject to continued growth. It is impossible to predict the long-term future, but at least for the next 20-year study period, expansion of the Eagle Crest Destination Resort beyond the current land use limits will not occur. This water supply system Master Plan assumes full build-out of the resort, to the greatest number of units allowed under land use approvals.

Build-out at the Eagle Crest Resort, based upon other similar resorts in Central Oregon, is expected to span 15 to 30 years. Mature resorts like Black Butte Ranch and Sunriver have not reached build-out after 30 years. Because the water supply system is analyzed at 100% build-out, some contingency or factor of safety is automatically built into the water supply system.

B. HISTORICAL AND PROJECTED DOMESTIC CONSUMPTION

Water consumption is the most critical component of water system design and it must be carefully evaluated to assure adequate capacity in system components. All components must be designed to accommodate the ultimate peak project needs. The water system will be constructed in phases to comply with the market demand, and initial assumptions about the ultimate demand will determine the success of the system.

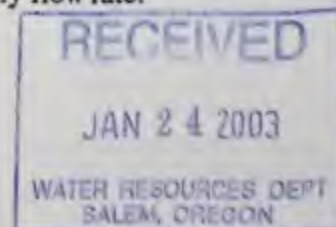
Domestic water consumption, or demand, will vary from month to month and with each hour of the day. The supply system must meet the peak instantaneous flow demand, which includes domestic use, irrigation, and fire protection.

The ultimate design criteria for the Eagle Crest water system is outlined in Table 2.

TABLE 2

**EAGLE CREST PHASES II AND III
WATER SYSTEM DESIGN CRITERIA**

1. Source facilities must deliver the peak day consumption flow rate, plus the peak day irrigation requirement.
2. Storage and booster pumping facilities, in combination with source facilities, must provide the highest anticipated fire flow.
3. Storage and booster pump facilities must provide the capacity for peak instantaneous domestic consumption flow rates.
4. Peak instantaneous flow is equivalent to 2.5 times the peak day flow rate. The peak day flow rate is equivalent to 1.6 times the average maximum monthly flow rate.



5. Water consumed in commercial, retail and recreational facilities is assumed to be used by project residents, and will not significantly increase the proposed maximum usage.
6. The distribution system will be sized to convey the maximum anticipated fire flow and the peak day flow rate at a maximum velocity of ten feet per second.
7. All facilities will be sized for the following ultimate development:

Phase I development:

- A) 138 single-family homesites
- B) 283 multi-family townhouse units
- C) 144 hotel rooms
- D) Miscellaneous uses

Phase II development:

- A) 800 single-family homesites
- B) 150 multi-family, townhouse units
- C) 250 hotel rooms
- D) Miscellaneous uses including recreation facilities, administrative and sales offices, a pro shop and other relatively minor uses.

Phase III development:

- A) 900 single-family, multi-family, and townhouse units
- B) Miscellaneous uses

The projected domestic water consumption for Phase II and Phase III is based on consumption information developed for Phase I. The projected peak day rate used in the design of the domestic water system for Phase I was 1,250 gallons per equivalent dwelling unit (DU) day. This rate was used for all townhouse units and single family homesites. The actual usage for Phase I is in line with this projection, and this figure will also be used to estimate total Phase II and Phase III domestic consumption. For consumption projections, 180 gallons per hotel room will be utilized, which is based on actual water consumption at the existing resort. Table 3 below lists all anticipated structures and the projected population. It also summarizes the design assumptions and calculations for the domestic system.

A design contribution of 1,250 gallons per day dwelling is conservative and offers a factor of safety for the water supply system. New water conservation policies, more efficient land irrigation systems, and low-flow plumbing fixtures should reduce consumption as compared to historical use.

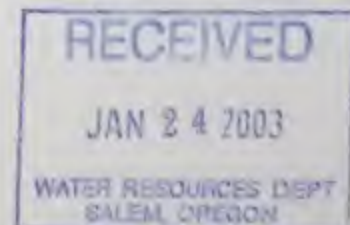


TABLE 3

**EAGLE CREST PHASES I, II, AND III
ESTIMATED TOTAL PROJECT POPULATION AND DOMESTIC CONSUMPTION**

BUILDING/FACILITY	ESTIMATED EQUIVALENT DU	ESTIMATED PROJECT POPULATION
PHASE I		
138 Single Family Homesites	138	414
283 Townhouse/Multi-Family Units	283	849
144 Hotel Rooms	21	360
Phase I Total	442	1,623
PHASE II		
800 Single Family Homesites	800	2,400
150 Townhouse/Multi-Family Units	150	450
250 Hotel Rooms	35	625
Estimated Phase II Total	985	3,475
PHASE III		
900 Residential Units	900	2,700
TOTALS:	2,327	7,798

DOMESTIC WATER CONSUMPTION CALCULATION SUMMARY

	PHASE I	PHASE II	PHASE III	ALL PHASES
Peak Day Consumption (GPD) (Total Equivalent Dwellings X 1,250 gallons/peak day)	552,500	1,231,250	1,125,000	2,908,750
Peak Day Source Requirement for Domestic Consumption (GPM) (GPD x (1 day/24 hours) x (1 hr/60 min.))	384	855	781	2,020

C. FIRE PROTECTION NEEDS

In addition to domestic consumption needs, an adequate water supply system must provide capacity for fire protection. Eagle Crest falls under the jurisdiction of the Deschutes County Rural Fire Protection District, and must meet the minimum requirements of this district. Eagle Crest is within the County District, assigned to the Redmond Fire Department.



The Redmond Fire Department has recommended a minimum fire protection flow rate of 750 gpm. We recognize, however, that future improvements will have significant value, and the quality of the project deserves fire protection flow rates in excess of this minimum standard. Based upon high urban standards for other Central Oregon municipalities, the recommended fire protection flow rate for residential areas is 1,000 gpm and for large commercial uses is 1,500 gpm.

D. GOLF COURSE IRRIGATION

The irrigation requirements for Phase II will include two 18-hole golf courses, open space areas, and landscaped areas adjacent to major amenities. No golf course is proposed for Phase III, but we have estimated approximately 20 acres of common area grounds irrigation. Landscape irrigation water for the single family homes and townhouses will typically be delivered in the domestic system, and the associated water use is included in the Table 4 domestic consumption figures.

Approximately 335 acres of golf course and common area turf will ultimately be irrigated in Phases II and III. Based on the current water rights policies, a source capacity of 1890 gallons per minute will be used for irrigation. It is important to note the water right permit appropriation is based upon 1/80 cfs per acre. Until a few years ago, the Oregon Water Resources Department used a standard rate of 1/40 cfs per acre or twice the appropriation. This fifty percent reduction clearly demonstrates the desire and obligation to use water wisely and conserve water at each opportunity.

Irrigation is expected to occur 24 hours per day during peak consumptive use periods. The golf course will be irrigated at night to prevent conflicts with golfers, and the agricultural/open space areas are expected to be irrigated during daytime hours. Because the normal operation of a destination resort will restrict watering hours, the irrigation demand will vary from hour to hour. The lakes constructed as part of the golf course will provide an irrigation water reservoir to meet peak period irrigation demand, with a steady source supply.

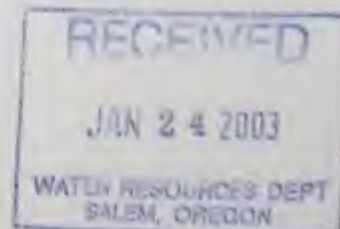
It is important to remember water supply systems are always designed for the highest expected flow requirement. Irrigation systems, for example, are designed to provide water for the highest consumptive use period of the year. In reality this high consumptive use may only occur once every few years and then only a few weeks out of the entire year.

The actual application of irrigation water at Eagle Crest will be regulated by electronic satellite controllers and computerized central control. This technology allows the golf course superintendent to adjust application rates for the various sun exposures, slopes, wind conditions, turf types, precipitation, temperatures, etc. The superintendent's responsibility is to maintain healthy turf, minimize pumping costs, and minimize fertilizer costs, or in other words, to assure the proper irrigation for each of the varied conditions within the course.

It is interesting to compare golf turf irrigation with agricultural practices. Turf irrigation equipment suppliers have completed studies to demonstrate the effectiveness of their systems, and documented typical water savings in excess of 50 percent, as compared to agricultural practices.

E. WATER CONSUMPTION SUMMARY

Consumption estimates are a critical component of a water system design. The design criteria outlined in Table 2 established necessary source capacity at the sum of peak day domestic consumption and the irrigation requirement. Fire protection flows and peak instantaneous demands will come from the combination of storage facilities and available source contribution.



Our tables and calculations have been based on the maximum or ultimate project demand. Table 4 summarizes the source requirement and consumption for all phases of Eagle Crest.

TABLE 4

**EAGLE CREST PHASE I, II, AND III
ESTIMATED WATER CONSUMPTION AND SOURCE REQUIREMENT SUMMARY**

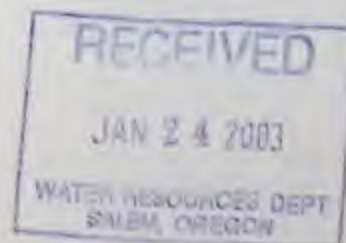
WATER USE	ESTIMATED CONSUMPTION
PHASE I	
Domestic	384 gpm (peak day)
	960 gpm (peak instantaneous)
Landscape Irrigation	1,500 gpm
PHASE II	
Domestic	855 gpm (peak day)
	2138 gpm (peak instantaneous)
Landscape Irrigation	1780 gpm
PHASE III	
Domestic	781 gpm (peak day)
	1953 gpm (peak instantaneous)
Landscape Irrigation	110 gpm
PHASES I, II AND III	
Fire Protection	2500 gpm
Ultimate Domestic Requirement	2020 gpm
Ultimate Irrigation Requirement	3390 gpm
Ultimate Source Requirement	5410 gpm

The total source requirement for the project is the combination of peak day domestic demand and the irrigation demand of 5410 gpm. The fire protection requirement will ultimately be met through the use of available source supply and stored water.

The ultimate source capacity of 5410 gpm will provide replenishment to the domestic water storage reservoir at the peak day flow rate and replenish the golf course lake(s) at a rate equivalent to the peak day irrigation use.

The ultimate source capacity is only required at full buildout of the resort and only on the peak consumption day of the year.

As noted previously, the water supply systems will be constructed in phases as the project grows. Each component in each phase must have the capacity to meet ultimate needs. The ultimate source and storage facilities will also be constructed in phases. This phasing program will be discussed in more detail in later portions of this report.



V. SOURCE FACILITIES

A. DESIGN CRITERIA

Since Phase I is essentially complete, and the required water sources for that phase are in place, the additional sources to be constructed need to meet the Phase II and Phase III water supply requirements, or 3526 gpm. This represents the source requirements at project build-out. Interim source requirements will be phased as appropriate.

B. PROJECTED ULTIMATE WELL YIELD

Table 5 summarizes the water supply information for the existing wells and surface water supply at Eagle Crest. Wells #2 and #3 are both being used for domestic and irrigation water sources in Phase I. Wells #4 and #5 exist at Eagle Crest, but are not an integral part of the domestic/irrigation water system.

TABLE 5

**EAGLE CREST PHASES I AND II
DESCRIPTION OF EXISTING AND PROPOSED WELLS**

SOURCE	LOCATION	APPROXIMATE ELEVATION	DOMESTIC CAPACITY	IRRIGATION CAPACITY
Swalley Irrigation District	Phase I	2850	0 gpm	1456 gpm
Well #2	Phase I	2960	550 gpm	400 gpm
Well #3	Phase I	2960	675 gpm	675 gpm
Well #6	Phase II	3107	190 gpm	220 gpm
Well #7	Phase II	3107	450 gpm	1400 gpm
Well #8	Phase II	3040	1000 gpm	1500 gpm
Well #9 (not yet operational)	Phase III	3080	1500 gpm	780 gpm
TOTAL SOURCE CAPACITY			4365 gpm	6431 gpm

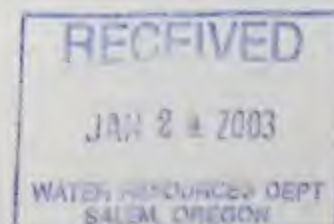
Phase II well pumps discharge at a lower total head to irrigation lakes, which increases overall capacity to the irrigation system.

The Table 5 total capacity compares well with our projected demand. Existing wells should have ample capacity to meet the average peak day demand. We now must determine if the combination of source capacity and storage can meet our peak instantaneous demand and fire protection needs.

VI. STORAGE FACILITIES

A. DESIGN CRITERIA

As noted, storage facilities provide the capabilities to meet the hour to hour changing demand for a domestic water distribution system. The storage reservoir will allow the system to meet fire protection needs and provide emergency water during source maintenance and repair. The storage facilities drastically increase the reliability of a distribution system.



B. STORAGE SIZING CALCULATIONS

The storage facilities are intended to balance the source contributions and the peak demand. The combination of domestic consumption, fire protection, and in some cases irrigation establish the project demand. A 300,000 gallon concrete storage reservoir has been constructed to serve Phases I, II, and III of Eagle Crest. In determining the adequacy of the existing 300,000 storage reservoir, we must segregate the water system by phase.

The Phase I portion of Eagle Crest is served by existing Wells #2 and #3. The domestic water supply system serving Phase I is owned by the Eagle Crest Master Association. The capacity of existing Wells #2 and #3 exceeds the peak instantaneous domestic demand on the system. Similarly, the Swalley Irrigation water right equals the irrigation demand. Eagle Crest Phase I therefore, can meet all of the daily requirements for both domestic and irrigation consumption directly from project wells and the Swalley Water Right pump. The existing domestic water reservoir is connected to Phase I, but the reservoir does not serve the Phase I project on a daily basis. The reservoir connection provides a great factor of reliability and provides an automatic connection in the case of an emergency or a fire.

The water supply system for Phases II and III of Eagle Crest are owned by the Cline Butte Utility Company. Cline Butte Utility Company is a subsidiary of the developer. Phases II and III are also interconnected, so that all Phase II and Phase III wells contribute to the same reservoir and the same water distribution system. It appears prudent therefore to analyze the existing 300,000 gallon storage capacity for adequacy to serve the combined needs of Phases II and III.

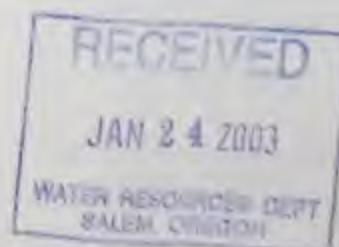
Table 6, below, summarizes the anticipated demand and source contributions, and calculates the total recommended storage capacity. It is important to note that all Phase II and Phase III wells could contribute to Phase I. Similarly, the storage reservoir can contribute to Phase I. In water system design, it is customary to assume that only one fire occurs within the project at any given time. The following calculations will analyze fire flow requirements. The Eagle Crest water delivery system can provide that fire flow at any location within Phases I, II, or III.

TABLE 6

EAGLE CREST PHASES II AND III DOMESTIC WATER STORAGE REQUIREMENTS

DEMAND/CONTRIBUTION	FLOW RATE
1. Well Contributions	3,140 gpm
2. Peak Day Domestic Flow Rate	-1,636 gpm
3. Balance to Offset Fire Flows	1,504 gpm

STORAGE CALCULATION	
1.	$(1500 \text{ gpm Fire Flow} - 1504 \text{ gpm available}) \times (2 \text{ hours} \times 60 \text{ minutes/hour}) = -0 \text{ gallons required for fire storage}$
2.	Storage available for emergencies and peaking = 300,000 gallons.
3.	Calculated duration of an adequate supply from wells and storage at the peak instantaneous domestic demand: 3.2 hours.



The design criteria in Table 2 indicates that water system piping must be sized to provide the largest fire protection flow rate in combination with peak day flows. Source facilities should be sized to deliver the peak day domestic and irrigation demands. Fire protection flow rates will be met by excess source capacity and storage. Similarly, peak instantaneous demands are met from available source capacity and storage.

C. ADEQUACY OF SUPPLY

The Table 6 calculation demonstrates that existing wells can accommodate the peak day consumption at full build-out, and refill the reservoir daily. The maximum fire protection flow rate of 1,500 gpm can be met from source capacity, with the reservoir providing a redundant backup supply. The reservoir capacity is adequate to meet the peak instantaneous flow rate at full build-out, for a duration in excess of five hours.

The peak instantaneous flow rate, at full build-out, would normally occur for an hour or less in the morning. Table 6 confirms the existing storage capacity is adequate, given the estimated capacity of the Phase II and Phase III wells.

The design of a water system must be constantly evaluated and confirmed as the resort project matures. It is recommended that water consumption, well production rates, and peaking characteristics be monitored and confirmed on a regular basis.

The preceding analysis of source capacity and storage facilities demonstrates an adequate water supply at full build-out of the Eagle Crest Destination Resort. Full build-out is defined by the maximum number of dwellings allowed under the land use code. Land use codes establish a maximum, but not a minimum. Therefore development of the resort could include significantly fewer homes or facilities, but never more than allowed in the land use process. As noted previously, we can not foretell the future, but we can reasonably predict that no growth beyond build-out projections will occur within the 20-year study period of this analysis.

VII. DISTRIBUTION SYSTEM

A. DESIGN CRITERIA

The Eagle Crest Phase II and III water distribution system will include approximately 16 miles of PVC mainline piping, serving an ultimate population of nearly 8,000 people. Building elevations in Phase II and Phase III will range from 2,860 to 3,450 feet. The existing Phase I distribution system will serve over 1,200 people with building elevations ranging from 2,940 to 3,050. The water distribution system constructed for Phase II and III already includes a connection to the Phase I system. This connection provides multiple sources and a storage facility for all phases. The interconnected distribution system will contain three pressure level, and will be designed to provide ample fire protection flow rates and high reliability.

The Phase II distribution system will ultimately include five internal loops to allow two way source flow, isolation of small sections of the service area during repairs, efficient hydraulic flow paths and high overall system capacity. The Phase III distribution system layout is still being refined, but will offer similar reliabilities.



The distribution system will be constructed in phases to coincide with market demand for resort development. The distribution system capacity will be restricted in the more remote sections of the project until development proceeds and system loops and components have been completed.

Table 7 lists the design criteria utilized in the sizing and layout of the water system for all phases of Eagle Crest.

TABLE 7

**EAGLE CREST PHASES I, II, AND III
WATER DISTRIBUTION SYSTEM DESIGN CRITERIA**

1. Pressure: Under normal operating conditions, pressure within the distribution system will range from 50 psi to approximately 100 psi. (Pressure reducing valves will be provided for the relatively few units to assure system pressure conforms to plumbing code standards.) Under maximum fire flow conditions, pressure within the distribution system should not be drawn below 20 psi.
2. Velocity: Under normal conditions, system mainline velocities will range from 0 to 2.5 feet per second. Under maximum fire flow conditions, velocities will not exceed ten feet per second.
3. Fire hydrant spacing within the developed areas of the project will typically be 500 feet, depending upon specific fire protection needs.
4. Isolation Valves: Isolation valves will be installed at all major crosses or tees to allow minimal impact upon the service area, during system repairs. The maximum distribution line valve spacing will be 1,000 feet within development areas.
5. Air Release Valves: Air release valves will be installed at all system high points to prevent the collection of air within the distribution system, and the associated reduction in mainline flow capacity.
6. Service Connections: Single family home service lines will be sized to convey 15 gallons per minute over an average length of 150 lineal feet, with less than 5 psi pressure loss. Typically, single family homes will be served by a one inch service line and fourplex condominium units will be served by a two inch service line.
7. Service Meters: Domestic water services will be metered and water charges will accommodate proportionate sharing of system operation and maintenance costs, providing a significant water conservation incentive.

B. TYPICAL MAIN SIZE AND RECOMMENDED LOOPING

A looping design has been constructed in Phase I and Phase II. This looping design provides flexibility to the system, alternative delivery during emergencies, and maximum flow efficiency. The typical main size for the system is 8" to 10", depending on the location of the main.



C. PRESSURE LEVEL RECOMMENDATIONS

The domestic services which must be provided for Eagle Crest Phases II and III range in elevation from 2,860 feet to 3,450 feet. Phase I service elevations range from 2,940 feet to 3,050 feet. The total elevation difference over the entire project is 590 feet. Phase I currently operates on a single pressure level, with system pressures ranging from approximately from 38 to 90 psi. This pressure range is well within the minimums stipulated by State of Oregon policy; however a higher minimum pressure was desirable. Several years ago a booster pump was installed to serve domestic needs at the highest elevations and provide a minimum pressure of 50 psi.

As noted, Eagle Crest Phase I is interconnected with Phase II, but typically operates independently. The following discussion on pressure levels is therefore limited to Phases II and III.

Pressure level boundaries are affected primarily by the elevation of existing wells and the existing reservoir. The base of the existing reservoir is at elevation 3295, which sets pressure level boundaries at 3210 feet (37 psi) and 3070 feet (97 psi).

TABLE 8

EAGLE CREST PHASES II AND III RECOMMENDED PRESSURE LEVELS

PRESSURE LEVEL	DESIGN ELEVATION	PHASE/LOCATION
1	Greater than 3210 feet	Phase III (Served by a booster pump)
2	3070 feet to 3210 feet	Phase II and III (Served directly by wells and storage)
3	Less than 3070 feet	Phase II (Served through Pressure Reducing Valves)

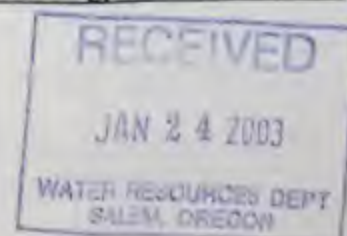
VIII. WATER RIGHTS

Water rights of record for the Eagle Crest development are summarized in the following Table 9.

TABLE 9

EAGLE CREST PHASES I AND II - SUMMARY OF WATER RIGHTS

SOURCE	PERMIT OR CERTIFICATE	DESIGNATED USE	AUTHORIZED DIVERSION
Swalley Irrigation District	C-29054 & C-29056	Irrigation	1486 gpm
Well #2	G-10530	Quasi-Municipal Irrigation	570 gpm 30 gpm
Well #3	G-10957	Quasi-Municipal	1,100 gpm
Well #6, #7	G-11313	Irrigation	1,921 gpm
Well #6, #7, #8	G-11762	Quasi-Municipal	1,500 gpm
Well #9	G-13819	Quasi-Municipal	1,500 gpm



As noted, permit rights exceed actual well capacities in some cases. Final water right certificates under Oregon water law will be limited to the authorized diversion, or the actual beneficial use, whichever is lower. Therefore, water right permits often overstate the actual production rate of a given well.

IX. REGULATORY AGENCY JURISDICTION AND COMPLIANCE

Throughout this report references have been made to several regulatory agencies. These agencies have a general obligation to protect the safety and welfare of the public.

The Oregon Health Division for example, must review and approve plans for all domestic water system components. Plans must be in conformance with Oregon Health construction standards, and a registered professional engineer must certify construction was accomplished in accordance with approvals. In addition, significant chemical and bacteriologic testing is required on a regular basis to assure safe drinking water supplies.

The Oregon Water Resources Department (OWRD) regulates water use, well construction, and water conservation through Oregon water law. Again, the types of uses, the quantity of use, groundwater protection, well construction standards, and even well aquifer testing is regulated and enforced by the OWRD.

The Redmond Rural Fire Protection District will review source, storage, and distribution systems to assure required fire protection flow rates are available.

The Oregon Department of Environmental Quality is also responsible for protection of natural resources and provides further assurances and regulation on aquifers and above ground activities that might impact the public.

Local and State building departments, the Environmental Protection Agency, the Division of State Lands, the Public Utility Commission, and others also provide safeguards. In summary, significant regulation is in place to assure proper design, construction, and delivery of water supplies.

A. WATER QUALITY HISTORY

Water quality testing at eagle Crest was initiated in the mid 1980's and has continued since that time, in general conformance with the rules and regulations of the Oregon Health Division. Oregon Health Division records confirm only one compliance issue for the past nearly 20-years. That single compliance issue was related to late reporting of a chemical test result in 1997. When reported the chemical test results conformed to requirements.

Water quality testing is carefully specified and monitored by the Oregon Health Division, including a gambit of chemical tests for all source facilities and throughout the water distribution system. For example, fecal and total coliform tests are taken on a monthly basis for each ground water well at the resort. Coliform is a common indicator organism that is not harmful, but tests for assurance of a pure water supply and distribution system. A number of other tests, taken on a less frequent basis, also compiled with Oregon Health Division regulations.

In summary, the compliance history for the Cline Butte Utility Company water supply system is excellent and to the best of our knowledge fully in compliance with Oregon Health Division regulations.



X. WATER CONSERVATION

Water conservation is an important issue in considering the development of destination resorts within Deschutes County. Discussed below are several important issues learned through the development of Eagle Crest.

As part of the water distribution system design, the following water conservation measures are recommended for incorporation into the Phase II and Phase III water system:

1. Each domestic water service will be metered.
2. A rate structure will be developed that provides a financial incentive to conserve water.
3. 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 application to reflect current weather conditions, and c) hydraulically efficient valve controls to assure uniform and consistent applications throughout the irrigated areas.
4. 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.
5. Low flow plumbing fixtures will be encouraged.

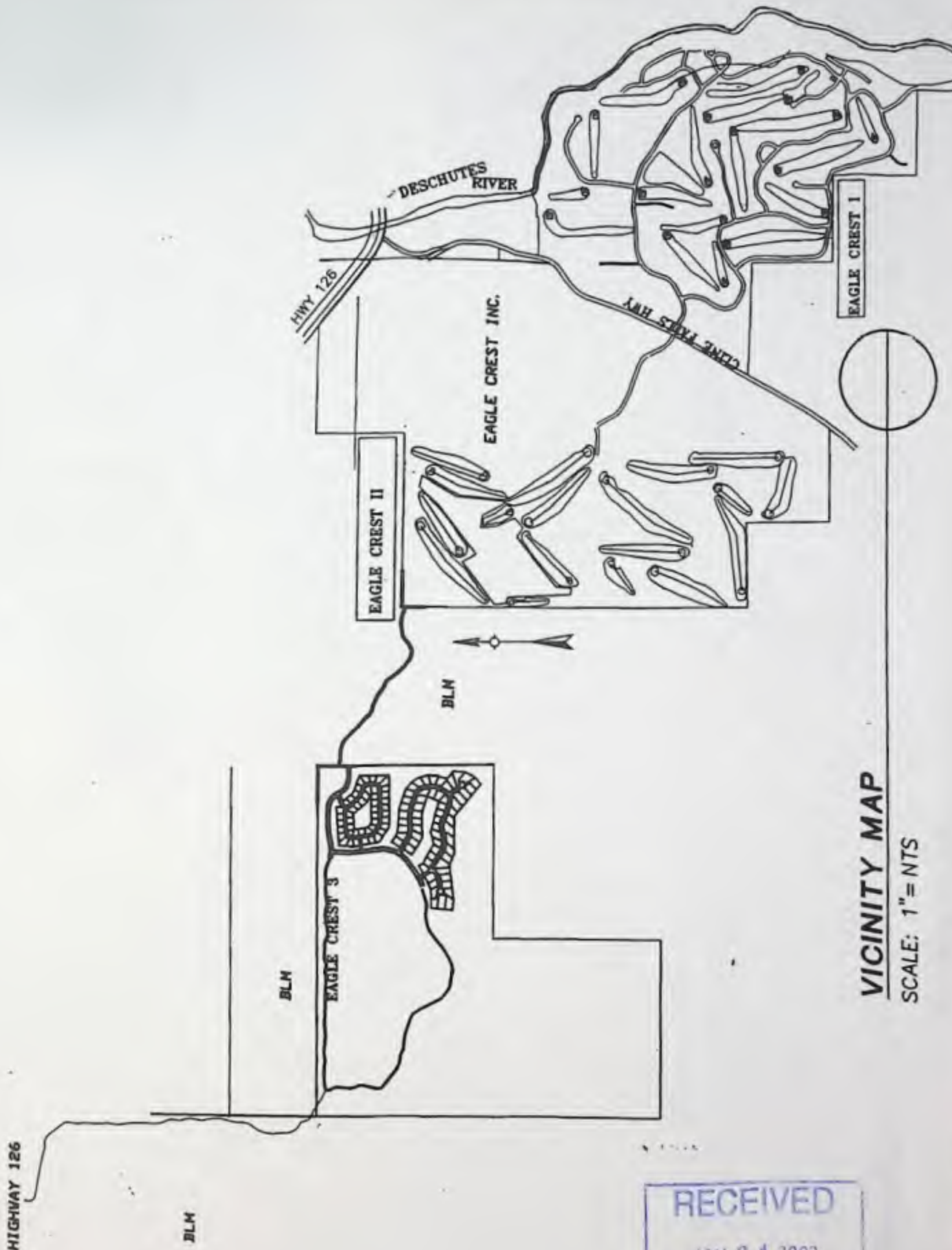
Public education programs on water conservation and irrigation practices have also proven effective. For example, the City of Bend accomplished a 25% reduction in water consumption through water conservation programs, including education and voluntary reduction of water use. In a recent draft study by David Evans & Associates Inc., the average water consumption for the City of Bend was documented at over two times the national average. Significant water use reductions are believed possible through public education on conservation programs.

XI. LONG TERM MAINTENANCE, UPGRADES, AND FINANCIAL OBLIGATIONS

The Cline Butte Utility Company is a subsidiary of Eagle Crest, Inc., the resort developer. Cline Butte Utility Company has the long-term obligation to maintain and upgrade the water supply system in good working order, in compliance with applicable state and federal regulations.

The Cline Butte Utility Company maintains accounting systems in conformance with the Oregon Public Utility Commission (PUC) standards, providing assurance of adequate long-term financial stability for the utility company.

The developer, Eagle Crest, Inc., finances the utility's development of all water supply improvements. As components of the water system are completed, they are transferred to the utility's assets. The financed debt is repaid through the rates charged to utility customers.



VICINITY MAP

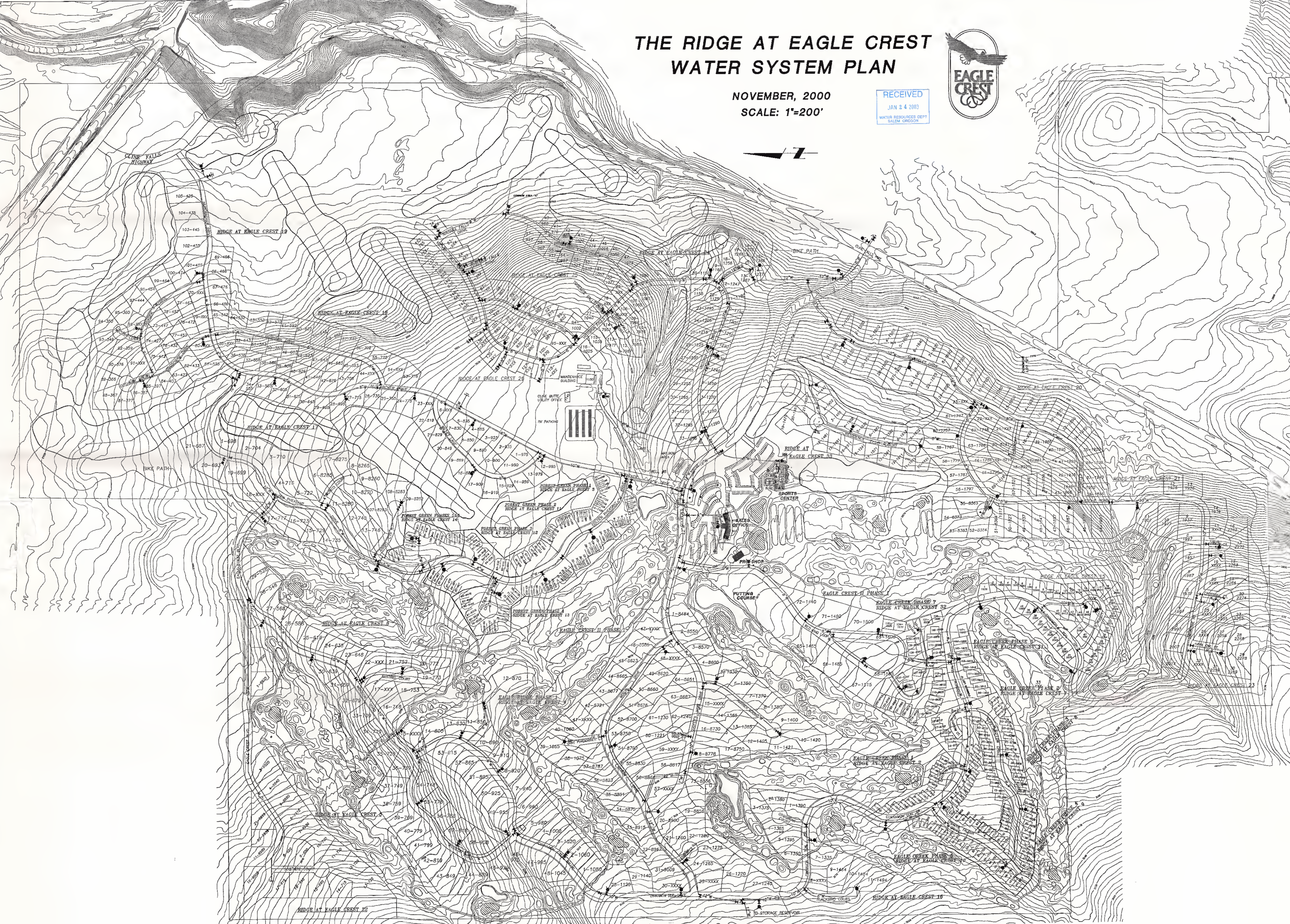
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THE RIDGE AT EAGLE CREST WATER SYSTEM PLAN

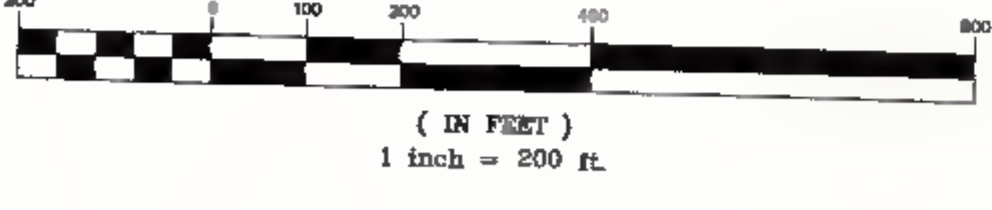
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GRAPHIC SCALE



43-00 LOT & BLOCK NUMBERS

2333 STREET NUMBERS

53-540 UNIT NUMBERS

EAGLE CREST ADDRESS DIRECTORY

PREPARED BY:

HWA SURVEYORS, ENGINEERS
& PLANNERS
HICKMAN, WILLIAMS & ASSOCIATES, INC.
905 SW INDUSTRIAL WAY, SUITE 10, BEASLEY, OREGON 97102
PHONE (503) 388-8351

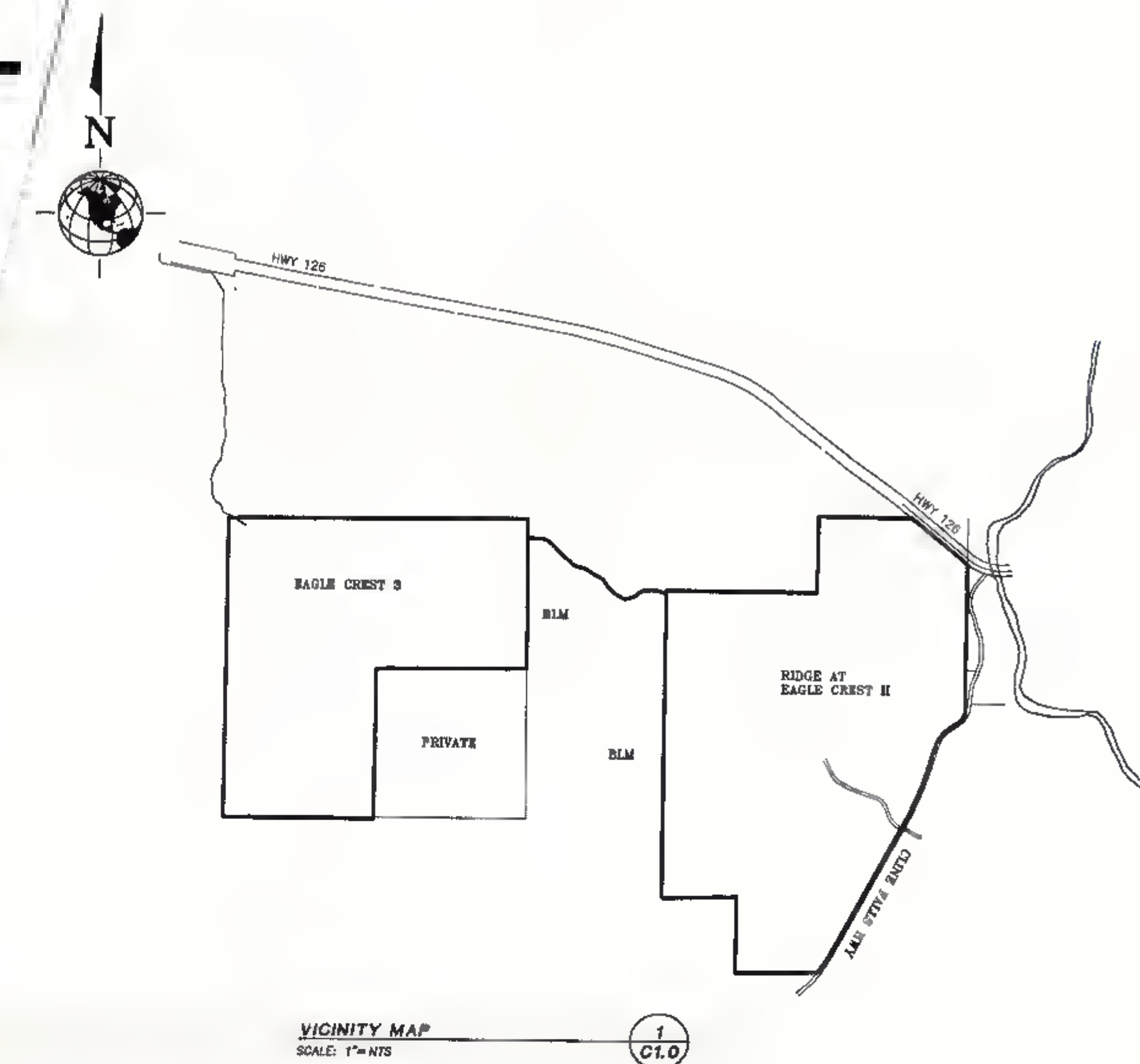
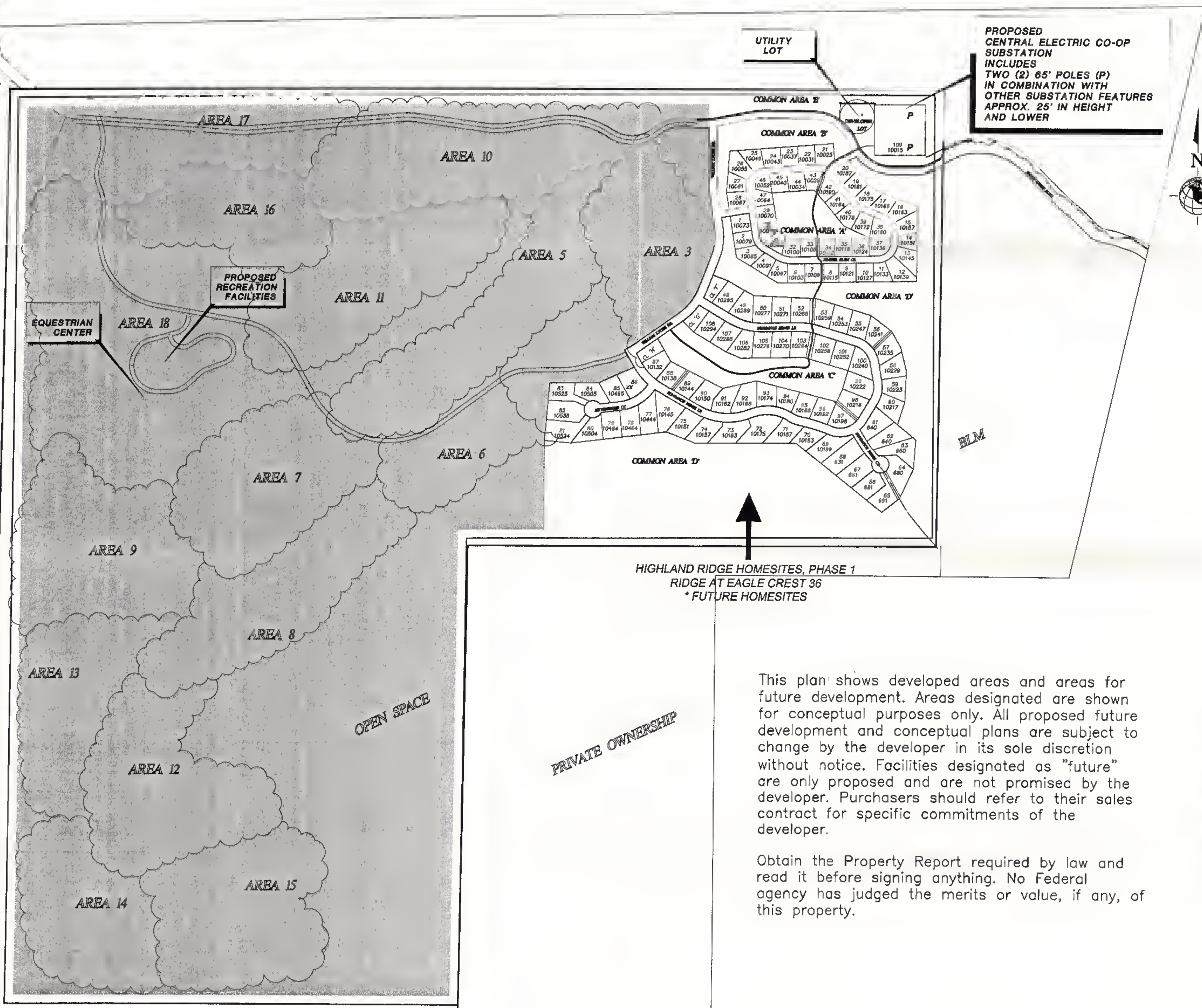
PREPARED FOR:
EAGLE CREST PARTNERS, LTD.
P.O. BOX 1215
REDMOND, OREGON 97756

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EAGLE CREST BLVD.
TO HWY 126,
1.3 MILES + / -

THE RIDGE AT EAGLE CREST
ADDRESS MAP
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GENERAL NOTES:

DEVELOPMENT IS EXPECTED TO OCCUR IN NUMEROUS PHASES OVER THE NEXT 5-20 YEARS.

AREAS 3, 5 - 18 WILL BE CONSIDERED FOR RESIDENTIAL DEVELOPMENT AND RECREATIONAL AMENITIES.

COMMERCIAL USES WILL BE ALLOWED IN AREAS 10, 11, 16, 17, AND 18.

AREA DESIGNATIONS ARE AS REPRESENTED IN THE CONCEPTUAL MASTER PLAN,
EXHIBIT #5, TENTATIVE DEVELOPMENT PLAN, APPROVED ON DECEMBER 2, 1999, BY
DESCHUTES COUNTY

AREA NUMBERING DOES NOT INDICATE PLANNED PROGRESSION OF DEVELOPMENT

This plan shows developed areas and areas for future development. Areas designated are shown for conceptual purposes only. All proposed future development and conceptual plans are subject to change by the developer in its sole discretion without notice. Facilities designated as "future" are only proposed and are not promised by the developer. Purchasers should refer to their sales contract for specific commitments of the developer.

Obtain the Property Report required by law and read it before signing anything. No Federal agency has judged the merits or value, if any, of this property.

THE RIDGE AT EAGLE CREST ADDRESS MAP

DECEMBER, 2000
SCALE: 1"=300'



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