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G-12905

Folder

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2 of 3

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756

FILE#: G 12905

Application No.

G-12905

Permit No.

G-11762

Certificate No.

85471

Stream Index, Page No.

See only-
abundance file

#2

FEE PAID

Date Amount Receipt No.

Cert. Fee

FEE REFUNDED

Date Amount Check No.

Date filed

Priority

Action suspended until

Return to applicant

Date of approval

CONSTRUCTION

Date for beginning

5/31/95

Date for completion

10/1/97

Extended to

Date for application of water

10/1/98

Extended to

PROSECUTION OF WORK

Form "A" filed

Form "B" filed

Form "C" filed

FINAL PROOF

Blank mailed

Proof received

Date Certificate issued

May 8, 2003

ASSIGNMENTS

Date

To Whom

Address

Volume

Page

REMARKS



February 9, 1993

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

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

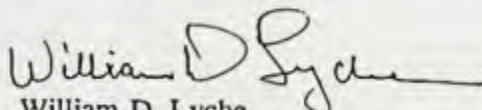
Dear Steve:

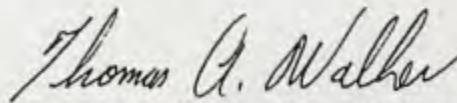
Thank you for your significant assistance with our pending groundwater appropriation application for the proposed expansion of the Eagle Crest Resort. Our original water right appropriation application was submitted April 28, 1992 and has been under review by your department since that time. At this time it is appropriate to change our application.

You are hereby authorized and asked to change item number three on our application, the intended use of water, from quasi-municipal to domestic for approximately 900 dwelling units, including irrigation of lawns and gardens, not to exceed one-half acre per unit.

This change is intended to expedite the processing and approval of our pending application. Your assistance will be greatly appreciated.

Sincerely yours,


William D. Lyche
Eagle Ridge Development Corporation


Thomas A. Walker, P.E., C.W.R.E.
W&H Pacific, Inc.

Eagle Crest
P.O. Box 1215
Redmond, OR 97756
(503) 923-0807
05260101\owrd-rm.ltr

EXHIBIT "F"

G-12905
ARLU-DeCo.
6-29-93

RECEIVED

JUN 27 1993

WATER RESOURCES DEPT
SALEM, OREGON

December 13, 1991

To: LCDC

From: Sandra Sands, Alliance for Responsible Land Use in Deschutes Co.

Re: Destination Resorts

I live in Redmond, near the present Eagle Crest Resort, in the rural Canyon River Territory. I breed and train Quarter horses, and raise cashmere goats for fleece production. I moved to Central Oregon five years ago, attracted by its rural quality of life, open spaces and availability of affordable horse property.

Out of growing concern over the acquisition of public BLM land for private enterprise, the visible depletion of wildlife habitat, and the concern for water availability and quality, I spearheaded a community group, known as Friends of Cline Butte. Our concerns have become county-wide, as many of us have joined forces with the Alliance for Responsible Land Use in Deschutes County.

To protect Oregon's future, the state's land use laws, wisely, protected agricultural and forest lands from development. The laws clearly and thoughtfully outline where destination resorts can and cannot be sited. We do NOT want more destination resorts in our county.

- The Four existing resorts now occupy prime resource lands.
- One resort can devastate rural quality of life, by creating small cities in rural areas, depleting draught affected aquifer supplies, pumping exorbitant amounts of water at depths several hundred feet below neighboring wells, impacting rural roads, impacting ground water quality, and by closing off open space and scenic lands for private enterprise.

Several counties, including Deschutes County, have elected to diversify from tourism as their regional strategy, choosing to return to agriculture, or venture into high technology. Tourism does not generate a family income market.

Implementation of Goal 8 and Title 18 amendments at this time was initiated by Eagle Crest to expediate the process because of financial pressures. RESOURCE LAND USE ACTIONS SHOULD NOT BE PREDICATED UPON TIME, NOR UPON A DEVELOPER'S FINANCIAL PRESSURES, NOR UPON SPECULATIVE LAND PURCHASING. Goal 8 is optional. Deschutes County has dedicated six months in an attempt to prematurely implement Goal 8, while important issues remain unresolved and open-ended, dependent upon the long over-due periodic review outcome on forest and farmlands.

The question of NEED for more destination resorts in Deschutes County has not been adequately addressed with the public.

The county has minimized citizen awareness and involvement by over-riding concerns of citizens - as evidenced by nearly 200 written citizen letters in opposition in the destination resort file, as the county rushes to prematurely implement Goal to meet a resort's deadlines.

The cumulative effects of current, as well as future destination resorts has not been addressed with the public.

Economic impact, negative, as well as positive, has not been fully studied, nor addressed with the public.

The questionable status of the county's four existing resorts has not been addressed. The Inn of the 7th Mt. is in bankruptcy - the county's resulting financial loss is great. Eagle Crest homeowners are in conflict with management, septic and water problems have not been resolved, and homes within the resort have been on the market for a year. Black Butte Ranch is plagued with conflicting water use issues. Sun River's attempt to incorporate as a city is costly to the county, proponents admitting a "new city" would help bring dollars back home to "help defray the cost of tourism's impact".

Destination resorts create an unreliable job market, for minimum wage earners, resulting in cost of living problems, seasonal jobs, and unemployment. Deschutes County's housing cost is now 18% higher than the national norm. Affordable housing, in an unsteady economy, is a serious problem.

A need for implementing additional agricultural and forest land has not been established, as there exists at present a 23-year supply of land eligible for development.

In the best interests of all its people, the county should compile objective, accurate water availability information. The county should undertake a comprehensive study of both the fiscal and physical health of its existing four resorts, and should study not only the positive economic impacts, but also the cumulative negative impacts of destination resorts on adjacent communities, and upon the county in general.

Governor McCall's love of Oregon and concern for its future was clear:

- focus economic growth efficiently around urban areas
- conserve important natural resources
- give citizens a clear voice in the planning process

We need your help in ensuring our land use laws and plans are honored in letter, and in spirit in Deschutes County.

Thank you for your consideration.

Sandra Sands

January 8, 1992

To: Deschutes County Board of Commissioners

From: Sandra Sands - 3450 SW 81st Street
Redmond, Oregon 97756

Re: File #PA-91-4 and File #TA-91-4

I represent Friends of Cline Butte, and I am an advocate for responsible land use in Deschutes County.

The question of NEED for more destination resorts in the county has not been addressed, nor has a NEED for adding agriculture and forest lands been established, as there exists at present a 23-year supply of land currently eligible for development.

Of the options available to the County, at this time, we believe it would be in the best interests of Deschutes County residents to determine that destination resorts are not appropriate in additional resource lands within the county. Once farm and forest lands are lost to resort development, it is impossible to reclaim the land when it is needed for food, fibre, and timber to meet the needs of the future.

According to Statewide Planning Goal 5, the County has been charged with the responsibility to conserve open space and protect scenic resource land and natural resources. Quality and quantities of these resources shall be inventoried. Where conflictual uses have been identified, consequences of the conflicting uses shall be determined. Further, the conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate, and type of growth in the planning area.

Cumulative effects of current, as well as future destination resorts has not been addressed with the public. The County should undertake a comprehensive study of both the fiscal and physical health of its existing resorts, and should study not only the positive economic impacts but also the cumulative NEGATIVE impacts of destination resorts on adjacent communities, and upon the county in general. Does the average citizen wind up paying for tourism - including higher federal, state, county and city taxes for highway expansion, highway repair, more schools and parks, increased police and fire protection, expansion of public utilities, unemployment wages for seasonal employees, escalated tourist prices to shop locally in a county actively promoting tourism?

Water Resources has stated that current ground water availability studies of this area have not been conducted nor inventoried. In 1989, Water Resources was granted the authority to investigate ground water at a county's request. Deschutes County has not applied. Ground water instability should be studied - drops in water level -vs- future development prospects. At Eagle Crest's request, Mr. Newton prepared what appears to be a superficial report. His report does not constitute a conclusive ground water study. *for the*

Statewide Planning Goals identify drought as a natural hazzard. Governor Roberts has declared Deschutes County a drought disaster area. At Deschutes County's request, a low 4% FHA loan for farmers if a 30% or more loss of agriculture production is due to drought has been initiated. Also, Water Resources has announced plans for a 30% cut in irrigation water use, due to drought impacts.

It would seem that now is the time for the County to consider implementation of procedures for a drought management plan pertaining to present and future large developments and high level water users. A conclusive study by Water Resources of ground water availability should be given high priority, precluding additional large development projects.

Destination Resorts and golf courses are high level ground water users. An average golf course requires 1.5 million gallons of water daily. Destination resorts usually consist of two to three golf courses, with lakes and waterways, 200 to 300 units of overnight lodging, which at the proposed 2 to 1 ratio, allows for up to 600 residential fairway homesites, with irrigated lawns. Destination resorts require millions of gallons of water daily, pumped from depths several hundred feet below neighboring domestic wells, from a drought-depleted aquifer.

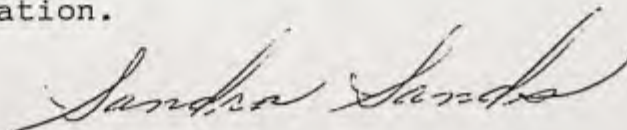
Deschutes County has dedicated six months in an attempt to prematurely implement Goal 8, while important issues remain unresolved, dependent upon the long over-due periodic review outcome on forest and farm lands. The primary purpose of Goal 8 is to satisfy the recreational needs of the citizens of the state, and visitors, and where appropriate, to provide for the siting of NECESSARY recreational facilities, including destination resorts. I've searched the destination resort file without finding documentation determining additional RECREATIONAL NEED in Deschutes County. Nor does Goal 8 take into consideration a county's record of resource and rural lands abuses.

Citizen testimony and the flood of recent "letters to the editor" are very good indicators of public opinion regarding the addition of destination resorts in forest and farm lands in the county. It was very disconcerting to read in a recent newspaper article a Commissioner's statement, (pertaining to the proposed land-use amendments being discussed here tonight), "To hold off on changes pending periodic review would kill Eagle Crest's financing." (Exhibit A). Resource land use actions should not be based upon time, nor upon a developer's financial pressures, nor upon speculative land purchasing. It is my understanding that the Board of Commissioners is comprised of elected officials, who serve as the public's elected advocates.

It is important that our lifestyles be preserved, and the resources of the county, both natural and financial, be used effectively. County policy could be "that destination resorts should be limited to those which would not have adverse effects on the tax burden, cost of living, surface and ground water supplies, nor upon wildlife.

We look to you, our Commissioners, to ensure that our tax dollars are used prudently and that destination resorts and their sitings do not become a burden on the county's residents. We need your help in ensuring Deschutes County's future by focusing economic growth efficiently around urban areas, by conserving important natural resources, and by giving citizens a clear voice in the planning process.

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "Sandra Sandoz", is written in dark ink.

To: THE BULLETIN
"my nickel's worth"

From: Sandra Sands, Redmond

Date: January 8, 1992

FILE #PA-91-4
#TA-91-4

JAN 20 1992

I would like to comment on Mr. Chandler's 1/7/92 editorial on "Ski Runs and Green Fairways".

Informing the public about the impacts from drought is truly important, especially considering Deschutes County is entering into its sixth year of below average rain and snowfall.

Perhaps the public also needs to know that the aquifers in our area receive only HALF of the total surface run-off from snowmelt and precipitation. It is not possible to accurately assess the amount of water currently being withdrawn from the aquifer. Well logs do not show how much water is actually being withdrawn, they show only a measurement of gallons per minute available. Further, aquifer boundaries have not been definitively identified in the Deschutes River Basin.

Water Resources in Salem admit the most current information compiled on this region's aquifer capabilities and renewal were compiled in the late 1950's and early 1960's. Demand on Deschutes County ground water has escalated with population growth, development, and heavy ground water user demands, such as golf courses. Published golf course statistics in the Bulletin stated "one average golf course requires 1.5 million gallons of water daily".

Water Resources recommends ground water instability should be studied - declines in water level -vs- future development prospects. A conclusive study of this region's ground water should be given high priority, before our ground water resource is over developed. Test wells at the Bonneville Power Administration, the observation well reflecting the Terrebonne/Redmond/Smith Rock area show a trend of ground water decline of about twelve feet over the last six years. The water level at Pine Meadows shows a similar trend.

Extended drought is a threat to the economic health of this region. The public should be presented with accurate information to avoid misunderstanding about what drought is and what it means to the region.

THE BULLETIN Editorial

An Independent Newspaper

Dan Clark, Photo Chief
Jeff Nielson, City Editor

Robert W. Chandler, Editor

Steve Bagwell, Managing Editor
Bill Bigelow, Sports Editor

Janet Stevens, Deputy Editor

Greg Cushman, Publisher

Mike Greening, Operations Manager
Corey Bock, Circulation Manager

John Shaver, Controller
Mike Thorpe, Director of Marketing

Ski runs and green fairways

One sign that Central Oregon has changed dramatically is the widespread misunderstanding about what a drought is and what it means to the region.

Many of today's Central Oregonians never have heard of Wickiup or Prineville reservoirs, let alone have any understanding of the importance of the water stored there.

A large share of our readers — in Deschutes County, at least — have little knowledge of why the snowpack and stream forecast figures we report each month are of vital interest to farmers and ranchers.

We suspect that too many people think of drought in terms of domestic water use — dry wells or brown lawns. That's not the issue in Central Oregon.

There is plenty of domestic water in the huge aquifers that course deep below the High Desert. Plenty enough for the growing population, it seems, at least in most areas.

What there isn't enough of is

surface water, the water that streams off the high Cascades and the Ochocos and fills reservoirs on the Deschutes and Crooked rivers. This is the water that nourishes the region's agriculture industry — which still is a crucial part of the Central Oregon economy.

Too often, today's Central Oregonians seem blase about drought, especially if there is enough snow to ski on or enough water to keep golf fairways green.

But the extended drought — we are into our fifth year of below average rain and snowfall — is a threat to the economic health of this region.

It could bring a forest fire to your door. It already is causing serious economic damage to growers and ranchers in several parts of Central Oregon. It is killing fish and hurting wildlife.

If you don't believe the drought is important, then you truly don't understand the place you live.

My name is Sandra Sands. I am opposed to HB-2932 because I live next to a destination resort and we are living the worse-case scenario - one that will repeat itself elsewhere without protections built into the destination resort bill.

May 3, 1993

To: Representative Bob Repine and Representative Ray Baum

Re: HB-2932 - Destination Resorts

I would like to talk with you today about a worse case scenario: A destination resort comes to town, sets up as a conditional use on EFU lands - with a couple golf courses, time shares and condos, then applies for permanent residences because golf courses are going belly-up nationwide without fairway housing. The resort, of course, must be located near a scenic river, surrounded by attractive wooded lands so resort patrons can experience fowl, birds of prey and deer in their natural habitat.

Because the resort is located in a rural area, there are no public services. The resort depends on a septic system and ground water for the resort and 1.5 million gallons per day of ground water to irrigate each 18-hole golf course.

The resort decides they must have a hotel. The hotel is added to the septic system and ground water demands, already overburdened, because more houses within the resort have been developed. Then the resort applies for a convenience store, a mini-shopping mall, a gas station and a post office - fronting the road to attract patrons.

The resort falls upon hard times, home owners in the resort are disillusioned because of failing septic systems, lack of water pressure, unfulfilled promises, and a lagging economy. During fire season, residents worry because fire response time out to their rural resort won't help much when they have only one exit out and the resort is surrounded by dry sage brush and juniper.

The resort has built out into their designated buffer zone and needs a new one; their designated open space has been used to create an amphitheater. The resort must produce more home sales in order to continue financing. The resort wants more land, so acquires 700 more acres of public BLM land in a trade across the highway. That land is zoned EFU, and is certainly cheaper than commercial land, but the resort can't develop that land without changing the rules.

Campaign contribution funds roll into the county commissioner coffers and into community projects to guarantee support. Elected local officials disregard citizen concerns and go to bat for the development. The rules are changed.

At first, the resort promises they only want two more golf courses on their new 700 acres under a conditional use permit. That's another 3-million gallons of ground water daily to provide

WILDWOOD STABLES
Dave & Sandy Sands
3450 SW 81st St
Redmond, OR 97756
(503) 548-8643

lush green turf in the middle of the dessert on land declared worthless for agriculture.

We all know golf courses do not survive without fairway housing. Now that resort wants to develop a 1,218 acre private resort in this peaceful rural area. They want 900 more houses, they want a couple hundred condos and townhouses. They want another hotel and convention center. They want another restaurant, and shops for their patrons. They want to deluge this rural area with golfers, shoppers and tourists. They want to add 900 more dwellings, a minimum of 1,800 permanent residents - a small city out in this rural farming community - on septic system, using ground water.

Of course, rural roads aren't adequate for thousands more people, so the Highway Dept. generously offers to use taxpayer dollars (60%) to fund a 30-foot concrete overpass and highway expansion to the resort, in this pleasant rural area. If the Highway Dept. can't acquire frontage for expansion, they'll just condemn said property.

Meanwhile, property values and property taxes soar due to an influx in the community of two hundred and three hundred ^{thousand} dollar fairway homes. Now, senior citizens on fixed incomes can do community service to help offset their escalated property taxes in order to keep their homes. Residents of the community near this resort must pay escalated tourist prices each time they shop for staples and goods. Utility prices go up to pay for expansion to a new small city in a rural area distanced from the urban growth boundary. Deer, forced from established feeding lands by development and increased traffic, lie dead beside the road or take their chances in a neighbors yard. Birds of prey fall victim to poisoning from rodents ingesting golf course pesticides. Water fowl are shot at to keep them away from pristine golf course ponds. The river below the resort becomes contaminated by fecal coliform because of an inadequate septic system for an ever-expanding resort. Neighboring wells begin to drop, five feet, ten feet - but action by water resources won't be taken until wells drop 25-feet.

The resort encroaches on the neighboring rural residential community - acquiring more land to create another buffer zone, and to acquire existing domestic wells to provide more water to the resort. The existing community becomes surrounded by properties acquired by the resort, now part of the destination resort overlay zone. The resort wants to change the rural zoning and pave the cinder roads in this community. The resort offers bribes so residents of the community will dissolve their protective building and use restriction so the resort can develop property acquired. Destination resorts will always want more!

I live next to a resort, in a county that when polled, showed that 80 % of its respondents felt there were already too many

WILDWOOD STABLES
Dave & Sandy Sands
3450 SW 81st St
Redmond, OR 97756
(503) 548-8643

destination resorts and they favored protecting farm and forest lands unable to support commercial farming for open space, wildlife habitat, and small-scale hobby farms.

Please listen to the people. The bill before you is very ambiguous. It's full of loop holes that allow for real-life worse-case scenarios. Build in absolute restrictions that will protect property owners from encroachment by resorts. Use income from room tax, not to further tourism, but to reduce the burden tourism and fairway housing puts on the local consumer and property tax payer, to offset higher utility costs and repairs to overburdened roads. Polluters of rivers and contaminators and depleters of ground water must be held liable, legally responsible for restitution. Use a percentage of room tax to restore and protect wildlife habitat.

Do not increase rural sprawl - site destination resorts in or near urban growth areas. Keep concrete overpasses and resort cities out of rural lands and closer to services and public transportation. Goal 8 is in direct conflict with all of the other statewide planning goals that are in place to insure Oregon's future by focusing growth efficiently around urban areas, to conserve and protect natural resources, and to guarantee citizens a clear voice in the planning process. Destination resorts and their siting must not become a burden on Oregon's residents.

Thank you for your consideration.

Sandra Sands
Wildwood Stables
3450 SW 81st Street
Redmond, Oregon 97756

- Once farm and forest lands are lost to resort development, it is impossible to reclaim the land when it is needed for food, for fibre, or for timber to meet the needs of the future.
- Cumulative impacts, both positive and negative, of current, as well as future destination resorts must be studied objectively.
- Statewide Planning Goals identify drought as a natural hazard. Rather than sanctifying a water studies done by a hydrologist on a developer's payroll, counties should be mandated to conduct current surface and ground water availability studies, prepared by an objective agency, such as State Water Resources. Drops in water level versus future development prospects must be addressed to guarantee quality and quantity of water for all residents.
- Destination Resorts and heavy ground water users. An average 18-hole golf course utilized 1.5 million gallons of water daily. Major resorts offer two and three golf courses, with lakes and water obstacles. The proposed Goal 8 ratio of two fairway homesites for each unit of overnight lodging allows a destination resort a density of 500 to 600 irrigated homesites.
- Deschutes Co. has been declared a drought disaster area. It would seem that now is the time for the county to consider implementation of drought management procedures pertaining to present and future large scale, heavy water user development.
- The primary purpose of Goal 8 is 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.
 - The purpose of Goal 8 is NOT to establish small cities in rural, resource areas.
 - Perhaps Goal 8 should take into consideration a county's record of resource and rural lands abuses.

It is important that rural quality of life be preserved, and the resources of the county, both natural and financial, be used effectively for the betterment of ALL ITS CITIZENS.

To ensure Deschutes County's future, economic growth must be focused efficiently around urban areas, natural resources must be conserved, and citizens must have a clear voice in the planning process. Destination resorts and their siting must not become a burden on the county's residents.

To: The Senate Committee on Agriculture & Nat. Resources

From: S. Sands, 3450 SW 81st St., Redmond, Or. 97756

STATEWIDE PLANNING GOAL 8 - DESTINATION RESORT SITING

My name is Sandra Sands. I reside in Deschutes County, and am here today as a member of the Alliance for Responsible Land Use in Deschutes Co. and as a member of a concerned rural citizens group known as Friends of Cline Butte.

We are opposed to the siting of destination resorts in agricultural and forest lands. Our primary concerns are as follows:

- Deschutes Co. suffers the effects of a population jumping 170% from 1970 to 1990. The growth rate is more than twice the state average.
- Major destination resorts, such as Eagle Crest and the proposed Smith Rock resort will enormously impact our highways. State Highway Planners estimate a major resort would generate 4,500 cars per day in a localized rural area.
- Growth does not pay for itself. Increased taxes support major highway expansion and repairs, new schools, major public works projects and increased utility services to an increasing population.
- The siting of destination resorts must be restrictive to prevent an over-saturation of resorts in one area. Deschutes Co. presently has better than 50% of the total destination resorts in the northwest---occupying resource land.
- As Goal 8 presently reads, it appears Statewide Planning Goals 3, 4, 11 and 14 have become exceptions when farm and forest lands are targeted for destination resort development.
- The question of NEED for more destination resorts in Deschutes County has not been established, nor has a NEED for adding forest and farm land for resort development been clearly established.
- Politics must not be allowed to over-ride citizen concern. The siting of destination resorts on non-irrigated farm land was prematurely implemented, while important issues remained unresolved, because "To hold off on changes pending periodic review would kill Eagle Crest's financing." Close to 1,000 letters voicing citizen opposition to allowing destination resorts in farm and forest lands were received by the County.
- RESOURCE LAND USE ACTIONS SHOULD NOT BE BASED UPON A DEVELOPER'S FINANCIAL PRESSURES, NOR UPON SPECULATIVE LAND PURCHASING.

EXHIBIT "G"

G-12905
ARLU-DeCo.
6-29-93

(24 pages)

RECEIVED

JUN 30 1993

WATER RESOURCES UNIT
SALEM, OREGON

A PUBLIC OPINION SURVEY ON RURAL LAND ISSUES

for

**DESCHUTES COUNTY BOARD OF COMMISSIONERS
1130 NW HARRIMAN
BEND OREGON 97701**

conducted by

**WESTERN ATTITUDES
17321 SW BOONES FERRY ROAD
LAKE OSWEGO OREGON 97035**

June 1992

INTRODUCTION

The Deschutes County Board of Commissioners places a high value on communicating with its constituents - the citizens and voters of Deschutes County. Opportunities are provided for interested persons to appear before the Commission on all issues. However, those who do take advantage of these opportunities make up such a small percentage of the overall county population that policy makers are left to wonder whether these people represent the viewpoint of the community at large. To learn more about the views, opinions and values of the "silent majority" of citizens on issues relating to rural lands, the Board of Commissioners authorized this Community Attitude Survey. In a survey of this nature, a randomly selected group of citizens is polled on issues that are facing the County. The survey provides a snapshot of community opinion at a moment in time. These opinions can then be taken into account as the Board and County staff develop future policy options.

Deschutes County is completing the first Periodic Review of its comprehensive plan and zoning regulations. This Review is mandated by state law to determine if the County is in compliance with Statewide Land Use Planning Goal 3, that requires counties to preserve and maintain agricultural lands. As part of its Periodic Review, the County has contracted with Oregon State University for a study of agricultural lands in the county. This study will gather technical data from a number of sources and produce a recommended zoning model for the regulation of land uses on agricultural land in the county. The County wishes to supplement the technical data and zoning model recommendation to be produced by the agricultural land study with a two surveys, one, this survey of public opinion, attitudes and values regarding land uses on agricultural and rural land; the second, a survey of county residents engaged in agriculture regarding the nature of their operations (the subject of a separate report). The results of these surveys will be used by Deschutes County Planning Staff, the Planning Commission and the Board of County commissioners as they develop policy for rural land use planning.

This report contains an executive summary, a demographic profile of respondents and a survey overview section which outlines responses to each question. The tables and other data supporting the findings in this summary report are contained in the appendix to the principal report, on file in the office of the Director, Deschutes County Community Development Department. The survey instrument contained a place for people to express their concerns about rural lands to the Board of County Commissioners and these comments will be passed on to the Board for their review and enlightenment.

We acknowledge the assistance of Community Development Director, Karen Green and Community Development staff in identifying rural land issues facing the County, and the Board of Commissioners in reviewing and approving questions and survey design.

METHODOLOGY

In March, 1992, the Deschutes County Community Development Department issued a "Request for Proposal for Public Opinion Survey" to identify public opinion on a number of issues concerning land uses on rural land in the county and to obtain specific information on the nature of agricultural operations in the county. Western Attitudes, a subsidiary of Western Advocates Incorporated, responded to this request and was subsequently awarded a contract to perform two surveys; one, a survey of public opinion, attitudes and values regarding land uses on agricultural and rural land and a second survey of county residents engaged in agriculture regarding the nature of their operations. The second survey will be the subject of a separate report. A copy of the Request for Proposal, together with Western Attitudes response, is included in the appendix to the principal report.

Questions for this public opinion survey were developed by Western Attitudes, in consultation with Deschutes County Community Development Staff and reviewed by the Board of County Commissioners. In all, 36 questions were identified. Respondents were asked to share their attitudes and values on a number of topics - quality of life in the area, uses of farm land in the county, non-farm development in farm use areas, farm use and non-farm use conflicts, destination resorts, fish and wildlife habitats, and also to provide demographic data about themselves. Some questions were "open-ended" to encourage respondents to elaborate on their attitudes and values. Other questions asked respondents to choose or prioritize from a list of options provided. At the end of the survey, respondents were able to list any additional comments about rural lands they would like to pass on to the County Board and staff. About twenty surveys were distributed and field tested by both Western Attitudes and County staff and, as a result, some questions were modified to clarify issues and make questions easier to answer.

The target population was identified as households containing registered voters in Deschutes County. The size of the sample frame, i.e. those to be contacted, was estimated to be about 3,000. With this many contacts, we estimated we would receive in excess of the 400 resident responses needed to provide results with a margin of error of plus or minus 5 percentage points, even if opinions are evenly divided. To ensure that all members of the target population had an equal chance to participate, a computer-generated list of names of Deschutes County registered voters, selected at random and representative of precinct counts in the county, was prepared by Voter Contact Services, a national firm that specializes in creating mailing and calling lists for these purposes. 2,943 surveys were mailed and some 1,062 responses (a 36% response rate) were received by our cut-off date. We know what the people who responded think. What we don't know is how representative they are of the people who chose not to respond i.e. the level of non-response bias that might exist. However, the benefit of receiving not 400, but 1,000 responses is that the maximum variability in the margin of error is only 3% where opinions are evenly divided and smaller than that when there is less diversity of opinion. The "error" in margin of error refers to the expected difference between a sample's results and results one would get if it were possible to survey the entire population.

Based on the extent of the County's policy information needs and what we saw as complicated questions that would be difficult to convey over the phone, Western Attitudes

recommended the use of mail rather than telephone to gather responses. We have used the telephone for community attitude surveys on prior work for the Washington County Board of Commissioners and the cities of West Linn, Lake Oswego, Ashland in Oregon and Post Falls in Idaho. We believe telephone methodology works best where a relatively quick turnaround time is needed, when the information needs are less expansive than in this survey, and when the issues to be surveyed lend themselves to a quick, "gut-level" response. Recognizing that survey research calls intrude into people's lives, often at inopportune times, and usually when the subject is least likely to be thinking about the subject under discussion, we are more sensitive than most in restricting our use of this methodology to those issues that are less complex; that require fewer than 25 questions, and that take little more than eight minutes to complete. We have also conducted community attitude surveys by mail, most recently for the City of Tualatin and the City of Lake Oswego. We find them more appropriate when dealing with detailed or lengthy surveys on more complicated issues. Policy makers seem to appreciate the additional insight mail surveys provide where respondents articulate not only their opinion, but why they believe as they do and what they would like to see done. In our judgement, the nature of the County's information needs, particularly with its emphasis on attitudes and values and the desire to have respondents put lists of items in priority order, warranted the use of a mail survey so that the respondents would have the luxury of time and reflection in sharing their views with the Board of Commissioners. While there is always a greater element of self-selection associated with mail surveys i.e. they are more likely to be returned by people who feel strongly on either side of an issue, or by those who simply have the time to fill them out, we are comfortable that, with over 1,000 responses tabulated, respondents represent the continuum of opinion.

In a "Special Report On Designing, Conducting and Understanding Citizen Surveys - Citizen surveys, How to Do Them, How to Use Them, What They Mean" published by the International City Management Association in 1991, *the authors report that, in their collection of surveys conducted by local governments from around the country, the mailed survey, rather than telephone surveys, was the most popular means of contacting residents.* The authors also note that among citizen surveys conducted in the past several years by local governments, mailed surveys average a 34% response rate, while telephone response rates tend to fall between 70-80% and in-person interviews net around an 85% response. They go on to say that the difference in rates is not considered significant enough to dictate the choice of one method over another.

Survey responses received by Western Attitudes have been tabulated and the data cross-tabbed to indicate how the views of respondents differ according to length of residence in the County; whether they live in, or outside, a city; if they farm or not; the area of the county where they live; their ages, and their perspectives on whether quality of life in the community has changed over the past two years. The appendix to the principal report contains these tables.

In reviewing this report, readers should keep in mind that, as the size of the sample under review diminishes in size, the potential margin for sampling variability error is likely to increase. Sub-group analysis for each question is therefore less reliable than figures for the overall sample.

EXECUTIVE SUMMARY

Survey respondents like living in Deschutes County. Almost 7 out of every 10 respondents rate their overall quality of life as a 7 or higher on a 10 point scale, the median average response being 7.4.

However many respondents also express concern about the long-run viability of their existing quality of life. Two-thirds, a significantly large number, feel that the overall quality of life in Deschutes County has gotten worse over the past two years. This perception is a prevailing and majority opinion across almost all geographic and demographic groups within the county.

Perceptions about growth and growth-generated impacts such as traffic congestion, development and escalation of prices and costs are at the heart of these concerns. People who believe the quality of life in the area is deteriorating generally place a higher value on the scenic and natural beauty of the area, clean air and the rural character of the community.

84% of those who returned a survey are not in the business of farming, even though over two-thirds of the respondents live outside the incorporated cities in the county. Over half, 52%, live on 0-5 acre lots.

43% believe there is either the right amount (30%) or too much (13%) land currently zoned for commercial farm use in the County. 21% indicate there is too little.

By a 14% margin, respondents believe that the county is losing land which is reasonably capable of supporting commercial farms. The most popular reasons given for this occurrence are small lot divisions, speculative values and the lack of profit in farming.

Three-quarters of the respondents would place some restrictions on certain uses in rural areas so that land currently zoned for commercial farm use can be used more productively. There is concern about how the County defines a viable "commercial farm" and greater interest in restricting subdivisions, destination resorts and golf courses than other land use patterns.

If land in an EFU zone can't be used effectively for commercial farming, then hobby farms, designated wildlife habitats and open space areas are considered the most attractive alternative uses. There is a significant level of popular support for the encouragement of hobby farms, particularly on property where full-time commercial farming is not a viable option.

55% believe there is either too much (28%) or about the right amount (27%) of land available for non-farm residential development in rural Deschutes County. 21% believe there is too little land currently available for this purpose.

Among those who believe more rural non-farm residential development is needed, there is a preference to locate that development on land that can't support commercial farms. A majority would also prefer that it be in areas where current lot sizes are under 10 acres and on non-irrigated land.

Three-quarters of the respondents favor restricting such development away from important wildlife habitats. A majority would prohibit it on land suitable for commercial agriculture.

46% of the farmers and 80% of the non-farmers have not experienced any incidence of farm and non-farm use conflicts. People are almost evenly split on the question of whether additional regulations to minimize conflicts are needed.

Creation of jobs and favorable economic development impacts are cited as the principal benefits of destination resort development; strain on water resources and traffic congestion are identified as the major negative impacts.

80% are of the opinion that there are either too many (31%) or about the right amount (49%) of destination resorts in Deschutes County. 14% believe there are too few resorts. Perspectives about reducing the ratio of permanent housing to overnight lodging units (currently allowed at a ratio of 2:1) are mixed. 33% would either leave it the same or make it more liberal. 46% would either do away with it or reduce the ratio to something less.

The greatest support for, and least opposition to, siting additional resort developments in farm use areas is to locate them on non-irrigated land. Location of resorts on other types of lands is likely to focus significant opposition on the project.

A majority, 56%, believe that the County's current regulations do not adequately protect important fish and wildlife habitats.

DEMOGRAPHIC PROFILE OF RESPONDENTS

As the reader reviews this report, it is important to keep in mind the profile of those whose opinions are being presented.

Question 1: How long have you lived in Deschutes County?

Under 5 years	24%
6-10 years	18%
11-20 years	31%
Over 20 years	28%

The median length of time respondents have lived in Deschutes county is about 15 years. People who live on 0-5 acre lots tend to be more recent arrivals, while those who engage in the business of farming have a higher median residency time than those who do not farm. Respondents from the Redmond area have been in the area almost twice as long as those around Sunriver. Older residents, and those who see the quality of life as deteriorating, are more likely to be longer term residents of the area.

Question 7: Where do you live?

0-5 acres outside a city	52%
6-40 acres outside a city	13%
More than 40 acres	2%
In a city	34%

- Almost 6 out of 10 respondents who have come to the County in the past 20 years, live on a 0-5 acre lot.
- While overall, 34% of the respondents live in a city, that figure is much higher, almost 50%, for those who have lived in the area for over 20 years. 4 out of 10 respondents under the age of 35 live in cities. Almost 4 out of 10 respondents from a city, have lived in the area over 20 years.
- One-third of those who say they farm live on a 0-5 acre lot, but they make up only 10% of the 0-5 acre lot respondents. 90% of those who live on 0-5 acres do not farm. 0-5 acre lot dwellers make up a higher percentage of residents in the Sisters (67%), Sunriver (73%), Terrebonne (61%) and La Pine 87%), while larger acreages are more prevalent in the Tumalo, Redmond and other areas. 46% of the respondents from the Bend area, 47% from Redmond, 24% from Sunriver and 13% from Sisters live inside a city.
- 47% of those aged under 35 live on a 0-5 acre lot. This percentage increases as age increases. Among those aged over 65, 57%, almost 6 out of 10 respondents, live on a 0-5 acre lot.

Question 8: Are you in the business of farming?

Yes - full-time	2%
Yes - part-time	14%
No	84%

- Because this is a survey of all county residents, its important to keep in mind that survey questions about farming are being answered by non-farmers. Among the 84% who don't farm, 40% live inside cities, 55% live on 0-5 acre lots and 5% live on 5+ acres. As county residents, their perception about farms is a factor Commissioners must reckon with, even if it is not always based on specific knowledge or experience.
- In the Tumalo area, 51% of the respondents are engaged in farming, 44% on a part-time basis. Among Terrebonne respondents, 48% say they farm, 42% on a part-time basis. In Other parts of the County, which includes East County and Alfalfa, 40% are farmers, 10% on a full-time basis.
- In the Sunriver area, all the respondents with the exception of one, are non-farmers.
- Among Redmond respondents, 7 out of 10 are non-farmers, 19% part-time farmers and 6% full-time farmers.
- In the Bend area, 9% say they farm part-time and 91% don't farm at all.
- All of the La Pine respondents are non-farmers.
- While overall, 16% of the respondents engage in full or part-time farming, that figure is higher among 35-45 year olds (23%) and those aged between 45-55 (21%).
- While overall, 65% of those surveyed say the quality of life in the area has gotten worse over the past two years, almost 9 out of 10 of the full-time farmers who responded feel that way.

Question 31: In which of the following age groups are you?

The sample tends to under-represent the younger segment of the population, i.e., those under 44, and over-represent those 45 and over. Recognizing that older people are usually more inclined to vote and be concerned about government actions, the sample may nonetheless be a real barometer of the public sentiment that is likely to be expressed on these issues. Throughout the report we will make a point of identifying the reactions of people in different age groups.

A commonly used technique to "adjust" a given sample to a known demographic is to use weighing whereby the opinions of a group that is under-represented are given greater weight and the opinions of the over-represented group are given less weight. We have run that comparison and it is available for review. It results in no more than a 1% or 2% variance in some of the figures recorded for survey questions. In our sample, the following age group breakdowns are registered.

Under 35	11%
35-44	27%
45-54	21%
55-64	17%
65 & Over	25%

- Those under age 35 tend to be more recent arrivals (52% have moved to the area in the past 10 years) and are more likely to live in a city. At the other end of the age spectrum, one-third of those aged over 55, have been in the area over 20 years. Reflecting the trend of older people moving to the area, one-third of those between 55-64 have lived in Deschutes County less than 5 years, while a third of those over 65 have moved in over the past 10 years. 43% of the respondents from Sunriver and 34% from La Pine are 65 and over.

Question 35: In which part of Deschutes County do you live?

Sisters area	6%
Tumalo area	7%
Sunriver area	6%
Terrebonne area	3%
Bend area	54%
East County area	3%
La Pine area	6%
Redmond area	14%
Alfalfa area	1%

- 53% of the respondents said they are from the Bend area, 46% of whom said they lived in the city, 47% of whom live on a 0-5 acre lot.
- Among the 14% who are Redmond respondents, 48% live in the city, 34% on 0-5 acre lots and 19% on 5+ acre sites. 40% of the Redmond respondents have lived in the area over 20 years.
- Terrebonne respondents also have a higher than average number of 5+ acre respondents (37%) while 60% live on 0-5 acres.
- In the Tumalo area, 55% of the respondents live on 5+ acres, while 43% live on 0-5 acre lots.
- Two-thirds of the Sisters respondents live on 0-5 acre lots, 21% on 5+ acres and only 13% in the city.
- In the Sunriver area, almost three-quarters live on 0-5 acres and a quarter live inside the Sunriver community.
- While accounting for less than a quarter of the total number of respondents, the Terrebonne, Redmond and Tumalo areas account for over half, 53%, of the respondents engaged in farming. Over half, 58%, of the non-farmers live in the Bend area.

SURVEY OVERVIEW

QUALITY OF LIFE ISSUES

Question 2: Using a scale of 1-10, where 1 is poor and 10 is excellent, how would you rate the overall quality of life in Deschutes County today?

Deschutes County residents generally feel positive about the quality of life in the area. Almost 7 out of 10 respondents rate it as a 7 or higher on a 10 point scale, the median response being 7.4. This compares favorably with a recent Community Attitude Survey we conducted in Washington County where the median response to the same question was 7.1.

The reader should keep this point in mind while reading the report. Generally, people are happy to be living here. But they are concerned about the long-run viability of their current lifestyle.

<u>Rating</u>	<u>%</u>
1	1%
2	1%
3	3%
4	4%
5	12%
6	9%
7	20%
8	33%
9	8%
10	8%

- People who have been in the area for longer periods of time are more inclined to rate today's quality of life poorly. They have a median rating of 6.9 compared to 7.7 for people who have been in the area 5 years or less.
- Farmers tend to rate the area's quality of life slightly lower than non-farmers (7.2 compared to 7.5).
- Sunriver area residents and those from Sisters are more likely to be enthused about quality of life (7.8). Terrebonne respondents provide a 7.5 rating. Tumalo area (7.3) and Bend area residents (7.5) are more positive than those from La Pine (6.9) and Redmond (6.7).
- Ratings are higher among the 55-64 age group (7.7), those over 65 and those between 35-44 provide ratings of 7.4, respondents between 45-55 return a 7.3 and the lowest rating of 7.1 is registered among the youngest age group of 35 and under.
- Not surprisingly, those who see the quality of life as having improved over the last two years are very enthusiastic (8.5), those who see it as having stayed the same are also pleased (8.0) while those who see quality of life as deteriorating only rate it a 6.9.

Question 3: Do you feel that the overall quality of life in Deschutes County has improved, stayed about the same, or gotten worse over the past two years?

Significantly, two-thirds of the respondents feel that quality of life in the area has gotten worse.

Improved	8%
Stayed about the same	23%
Gotten worse	66%
Don't know	3%

- While overall 66% say quality of life has deteriorated, that opinion is more prevalent among 20 year residents (76%), people from East County, Alfalfa and other outlying areas of the county (81%), as well as people from Tumalo (79%) and those in the 45-55 age group (72%).
- More inclined to say quality of life has remained about the same are people who have been in the area less than 5 years (34%), those under 35 (31%) and people in the 55-65 age group (28%).
- Providing a higher than average return response for an improved quality of life were respondents who have been in the area 11-20 years (11%), those who live on 5+ acres (12%), farmers (11%), people from Sisters (13%), Sunriver respondents (12%), Terrebonne area residents (16%) and people from La Pine (14%).

It is very clear that the perception of a deteriorating quality of life is a prevailing and majority opinion across all geographic areas and demographic groups within the county.

Question 4: Why do you think this change has occurred?

Policy choices are made easier if there is a sense of consensus about what is happening and why. Question 4 attempts to see if there are any common themes that exist among respondents. It is an "open-ended" question and, rather than check from a list of responses on the survey, respondents were asked to write their viewpoint on the survey form. Western Attitudes then coded these responses into the most common categories. A sampling of comments regarding traffic, population increases, growth and development is included as Appendix C. Commissioners and staff are encouraged to review specific comments to this and other open-ended questions on the survey. Overall, the most common reasons given for the change in quality of life were too many people (26%), traffic (22%), and growth and development (12%).

- Among the 9% of those who believe that quality of life in the area has improved, the reasons most frequently cited include better services and shopping (34%), additional recreational opportunities (10%) and the positive benefits of growth and development (19%).
- Among the two-third who believe the area's quality of life has deteriorated, 35% point to the influx of too many people who often have values different from longer term residents and financial resources that escalate prices and costs in the area. 25% make

references to an overburdened transportation network and the traffic congestion generated as more and more people come to visit and stay in the area. 12% are concerned about what they see as other negative impacts of growth and development and a further 10% don't like the price and cost increases that have occurred in the area.

Question 5: Please name the one thing you most enjoy about living in Deschutes County?

This question was also an "open-ended" question. Overall, the area's scenery, natural beauty and clear air were cited as the number one attraction by some 30% of the respondents. 22% mentioned the weather, a further 16% the closeness to recreational opportunities and 10% mentioned the rural character of the area. 28% of Redmond residents mention the weather. 42% from Sunriver and 35% from Terrebonne mention scenery, natural beauty or clean air. Rural character is more important for people from the Other parts of the county.

- The correlation between people's rating of quality of life in the area and these factors provides some useful insights.

	<u>Quality of Life</u>		
	<u>Improved</u>	<u>Same</u>	<u>Worse</u>
Scenery, natural beauty, clean air	22%	27%	32%
Weather	31%	21%	21%
Recreational opportunities	16%	15%	17%
Rural character	6%	11%	11%

Those who believe the quality of life in the area has gotten worse express greater concern about issues like scenic beauty, clean air and the rural character of the community.

Question 6: If there were one thing about Deschutes County you'd like to change, what would that be?

This was also an "open-ended" question. Concerns about growth (22%), transportation/traffic (21%), development (13%), and government (12%) dominate the responses. A verbatim listing of changes people would like to make to government is included in Appendix A. Appendix B contains samples of comments respondents made related to growth and development; transportation; and "Other" issues.

- Among those who believe the quality of life has improved, there is greater concern about transportation/traffic issues (27%) and government (18%). Transportation (29%), is also a more significant issue for those who say quality of life has remained about the same. For those who believe quality of life has deteriorated, transportation (18%) is a secondary issue to growth (28%), while development issues were mentioned by 16%.

- Growth and development issues are of greater concern to respondents from the Sisters and Tumalo area as well as those in outlying areas.
- Transportation concerns register higher than average interest among those aged under 35, Sunriver and Bend area residents and longer term residents of the county. The proposal to route traffic through downtown Bend appears to draw significant controversy.
- Taxes are more significant for respondents from the Redmond and La Pine areas

USE OF FARM LAND IN THE COUNTY

This section of the survey form contained the following introduction. *"Most of the land outside cities is zoned for farm or forest use. Under Oregon land use law "farm use" is the raising, harvesting and sale of crops and livestock for a profit. Farm use is usually either "commercial farms", which are full-time farming operations or "hobby farms", which are part-time, smaller-scale operations subsidized by off-farm income."*

84% of the respondents are not in the business of farming. Among the 16% who are, 14% farm on a part-time basis and 2% are full-time farmers. The number of farming respondents is only 168 and, as mentioned in the Methodology section of this report, care should be exercised in making extrapolations on the basis on the answers to this and the following question.

Question 9: How many acres do you farm?

Less than 10 acres	51%
10-20 acres	23%
20-40 acres	14%
More than 40 acres	13%

- Respondents answering this question have a mean farming acreage of about 32 acres and a median of about 10 acres. Acreages in the Redmond area tend to be larger than those in Terrebonne and Tumalo which, in turn, are larger than those in the Sisters and Bend area.
- People in the 45-55 age group farm larger properties (median average of 16.3 acres) compared to 7.0 acres for those under 35.

Question 10: What kind of livestock or crops do you farm?

Cattle	49%
Horses	36%
Hay	37%
Llamas	5%
Crops	5%
Other	37%

- Just under half the farming respondents have cattle. Older and longer term residents, those on larger properties, people from the Redmond and Terrebonne areas and those who believe the quality of life in the area has improved, are more likely to run cattle. Many of the farms with cattle also grow hay.
- Just over one-third have horses. A higher than average percentage is recorded among more recent arrivals, those in the Sisters and Redmond areas, younger people and those in the 55-65 age group.
- 37% have hay crops, 5% llamas and 5% other crops.

Question 11: In your opinion, is there now too much, about the right amount, or too little land zoned for commercial farm use in Deschutes County?

35% of the respondents provided a "don't know" answer to this question. 30% of the respondents felt that the amount of land zoned for commercial farm use was about right, 21% said there was too little, while 13% indicated there was too much.

Right Amount	30%
Too little	21%
Too much	13%
Don't know	35%

- More inclined to believe there was too little land zoned for commercial farm use were longer term residents (27%), those who live on 5+ acre parcels (29%), farmers (30%), Tumalo (30%) and outlying area respondents (33%), and those who believe the quality of life has gotten worse (27%).
- Those who believe the quality of life has improved have a different perspective. Among this group, 32% say there is too much land zoned for commercial farm use, while only 8% say there is too little. Though not as extreme, this view is also held by those who believe the quality of life has stayed constant over the past two years, 18% saying there is too much while 9% say there is too little.

Question 12: Do you think Deschutes County is losing land which is reasonably capable of supporting commercial farms?

Yes	44%
No	30%
Don't know	26%

- By an overall margin of 14%, respondents believe the County is losing such land.
- The margin tends to be even wider among longer term residents (21%), those who live on 5+ acres (21%), farmers (28%), Tumalo residents (24%), Redmond residents (21%), Other area respondents (32%), those aged 35-55% (20%) and those who see quality of life as having deteriorated (31%).
- The margin is quite different and is actually reversed among those from the Sunriver area, among those who say quality of life has either improved or stayed the same. Terrebonne residents are tied on this question.

Question 13: If you believe the County is losing land which is reasonably capable of supporting commercial farming, why do you think this is happening?

- Respondents were provided with a set of eight alternatives to rank. Small lot divisions (67%), speculative values (54%), non-farm conflicts and the lack of profit in farming (31%) were the reasons most commonly cited. 26% mentioned too many land use regulations as an inhibiting factor.
- This ranking was fairly common across all geographic and demographic groups with the exception that farmers were more inclined to rate "no profit in farming" higher and too many land use regulations was more significant for those from the Sisters, La Pine and Other areas, among those over 65 and among those who feel the quality of life has remained about the same.

Question 14: Should certain uses be restricted in rural areas of the county so that land currently zoned for commercial farm use can be used more productively?

Yes	75%
No	25%

- Overall, 75% of the respondents favor some restriction on land uses in rural areas. Support for restrictions is higher among the 35-55 age group (83%) and among those who feel the quality of life has deteriorated (82%).
- On the other hand support for no restrictions is higher among those who live on 5+ acres (32%), farmers (31%), respondents from Sunriver (35%), Redmond (30%) and those who feel quality of life has improved in the area (43%).
- Those who supported restrictions were asked to indicate which of the most common non-commercial farm uses they would seek to restrict. 60% indicated subdivisions, 58% destination resorts and 53% golf courses, 19% would restrict non-farm residences and 10% would seek to restrict hobby farms.

Subdivisions	60%
Destination resorts	58%
Golf courses	53%
Hobby farms	10%
Other	12%

- A higher than average interest in restricting subdivisions was expressed by farmers (64%), respondents from Tumalo (67%), those in the 35-44 age group (69%) and those who believe quality of life has gotten worse (69%).
- Sisters and Tumalo residents (67%), those under 45 (63%) and those who feel quality of life has deteriorated (66%) are more inclined to want to restrict destination resorts.
- Golf courses are also less popular with the under 45 age group (57%) and those who see quality of life as deteriorating (60%).

Question 15: If land currently zoned for farm use can't reasonably support commercial farms, what other kinds of uses should be allowed on the land?

Respondents were asked to indicate preferences among eight alternatives. Results were as follows:

Hobby farms	61%
Designated wildlife habitat	60%
Designated open space	55%
5 acre residential subdivisions	34%
10-20 acre subdivisions	30%
Cluster Housing	23%
Destination resorts	15% *
Other	6%

- Hobby farms have greater support among those on 5+ acres (72%), farmers (82%) respondents from Tumalo (69%), Terrebonne (69%) and those under 55 (66%).
- Wildlife habitat enjoys greater support among those from Sunriver (65%) and La Pine (69%) as well as those who feel quality of life has deteriorated (65%).
- Designated open space is more popular with those residing in cities (60%), people from the Sunriver (65%), people over 65 (60%) and those who see quality of life as getting worse (62%).
- 5 acre residential subdivisions are more favored among Terrebonne (41%) and La Pine (42%) residents and by those who see quality of life as having improved (51%), or stayed about the same (43%).
- 10-20 acre subdivisions have more support among residents on 5+ acres (44%), farmers (40%), Sisters and Tumalo residents, those in the 35-45 age group (35%) and those who see the quality of life as improved (35%).
- Cluster housing has more support among respondents from Sisters (30%), Sunriver (30%), people over the age of 55 (26%), and those who believe the quality of life has improved or stayed about the same (32%).
- Support for destination resorts is more pronounced among those on 5+ acres (19%), farmers (19%), Sunriver (23%) and Terrebonne (34%) respondents and those who see quality of life as having improved (48%) or stayed about the same (20%).
- Looking again at quality of life ratings provides additional insights. Remember that, of the total sample, 9% feel that quality of life has improved, 23% think it has stayed about the same and 65% say it has gotten worse.

	Improved	Quality of life	
		Same	Worse
Hobby farms	58%	54%	63%
5 acre residential subdivisions	51%	43%	29%
10-20 acre residential subdivisions	35%	32%	29%
Cluster housing	31%	33%	19%
Designated open space	31%	43%	62%
Designated wildlife habitats	33%	53%	65%
Destination resorts	48%	20%	9%

Among those most concerned about the deteriorating quality of life, farming and wildlife/open space issues are paramount. Those who say the quality of life has improved are more willing to support other kinds of development in rural areas.

Question 16: Which of the following statements about hobby farms most closely matches your own opinion?

Respondents were given five statements to consider. Statements ranged from prohibiting hobby farms to allowing them to locate anywhere in the county.

<u>Statement A</u>	
Prohibit	2%
<u>Statement B</u>	
Discourage additional ones	5%
<u>Statement C</u>	
Allow on non-commercial farm land	47%
<u>Statement D</u>	
Encourage in farm use zones	16%
<u>Statement E</u>	
Allow anywhere in rural areas	29%

- There is a significant level of public support for the encouragement of hobby farms in the county, particularly on property where commercial farming is not a viable option.
- Expanding hobby farming potential would likely generate even greater support among people with 5+ acres sites, farmers, younger age groups and those who believe quality of life has improved.

To summarize public opinion regarding the use of farm land, there is public interest in protecting and even expanding land suitable for viable commercial farming in the county. People see small lot divisions, speculative values, non-farm conflicts and the lack of profit in farming as major reasons for the loss of commercial farm land. Restricting certain uses to enable the good farmland to be used more effectively has public support. On land currently zoned, but inappropriate for commercial farming, hobby farms and designated open space and wildlife areas, are preferred uses. Hobby farms are a popular alternative among all geographic and demographic groups in the county.

NON-FARM DEVELOPMENT IN FARM USE AREAS

Questions in this section of the survey form were prefaced with the following introduction. *"Some non-farm residential development has been allowed in rural parts of the county. Examples are single family homes on lots of ten acres or less with little or no irrigation, subdivisions with lots of 1-10 acres in size and planned or clustered developments with houses and designated open spaces."*

Question 17: In your opinion is there now too much, about the right amount or too little land available for non-farm residential development in rural Deschutes County?

Too much	28%
About the right amount	27%
Too little	21%
Don't know	24%

- One-quarter of the respondents did not offer an opinion on this question. People in this category were more inclined to be more recent arrivals and older residents.
- More inclined to believe there is too much non-farm residential development are longer term residents (32%), farmers (35%), Tumalo respondents (35%) and those who rate quality of life as deteriorating (37%).
- People from the Sisters, Sunriver and La Pine areas are more inclined to see the current level as about right.
- Among those who believe there is too little non-farm residential development are those on 5+ acre parcels (28%), farmers (28%), Terrebonne residents (42%) and those who believe the quality of life has improved (48%).

Question 18: If more rural non-farm residential development is needed, on what type of land should it occur?

People who felt, in Question 17, that there was too little rural land available for non-farm residential development were given seven options on where to put this kind of development. 78% favored putting it on land that can't support commercial farms.

Land that can't support commercial farms	78%
Where current lot sizes are under 10 acres	52%
On non-irrigated farmland	51%
Where current lot sizes are 10-20 acres	34%
Anywhere	30%
Irrigated farmland	11%
Other	8%

- Support for using land unsuitable for commercial farming was more pronounced among 6-10 year residents (63%), those on 5+ acre sites (61%), farmers (60%), and those under 35 (61%).
- Support for placing new development near existing lots under 10 acres in size is more likely to come from those who have been in the area 5 years or less (59%), those who currently live on 0-5 acre lots (59%) and younger people.
- More likely to favor the use of non-irrigated farmland are those on 5+ acres (59%), farmers (60%) and younger people.
- 10-20 acre lots are more preferred by 11-20 year residents (41%), those in the 35-45 age group (67%) and those who believe quality of life has improved (45%).

- Stronger than average support for the ability to place non-farm residential development anywhere in the county comes from more recent arrivals i.e. under 5 years in the area (37%), city dwellers (37%), Sisters (44%), Redmond (38%), those between 55-65 (44%) and those who say quality of life has improved (38%).

Question 19: Should non-farm residential development be prohibited in any of the following areas?

Yes	76%
No	24%

Three-quarters of the respondents favor restricting non-farm residential development in certain areas. Six categories of land were listed. Respondents were most concerned about protecting important wildlife habitats (55%) and land suitable for commercial agriculture (48%).

Important wildlife habitats	55%
Land suitable for commercial agriculture	48%
Land historically used as a farm	24%
Areas without public roads or utilities	24%
Land with outstanding scenic views	15%
All rural land	5%
Other	2%

- Concern about wildlife habitats is more apparent among younger people and those who see quality of life as deteriorating.
- Protecting commercial farmland is also a larger concern with those concerned about a worsening quality of life.

To summarize this section on non-farm development in rural areas, a slim majority (55%) feel that there is currently either too much or about the right amount of non-farm residential development in rural areas. Among those who would like to see more, there is a preference for seeing it located on land that can't support commercial farming, is non-irrigated, is on smaller lots of 10 acres or less and is non-threatening to wildlife habitats.

FARM USE AND NON-FARM USE CONFLICTS

Question 20: If you farm in an area where non-farm residential uses exist, what types of conflict, if any, do you have with non-farmers?

Almost half, 46%, of the farmers responding to this question indicated that they have had no conflicts with non-farming neighbors. Among those that did, the most frequently cited events were harassment of stock and trespass.

Question 21: If you live in a farm use area, but don't farm, what types of conflicts, if any, have you experienced with neighboring farmers?

80% of the respondents reported no incidents of conflict with neighboring farmers. Among those that did, the presence of noise, dust, odors and the like was most common.

Question 22: In your opinion, should the County impose additional regulations to minimize conflicts between farm and non-farm uses?

Respondents were fairly evenly divided on this issue and these results fall within the margin of error for the survey.

Yes	54%
No	47%

- More inclined to support additional regulations are those in the 35-55 age brackets (59%) and those who see a worsening quality of life (60%). More likely to oppose additional regulations are Terrebonne area residents (69%), and those from La Pine (57%), those under 35 (56%) and those who see an improving (57%) or static (59%) quality of life.
- Respondents who favored additional regulations were presented with a choice of seven options. There was no clear support for any one option. 23% identified prohibiting new lots for non-farm uses, 22% liked the idea of requiring new non-farm residents to sign a letter acknowledging they were moving into a farm zone and 21% suggested additional buffering or screening requirements.

In summary, while conflicts between farm and non-farm uses were mentioned in an earlier question as a possible reason for the loss of commercial farm land, day to day experience does not indicate any significant operating conflicts. Support for additional regulations in this area is probably driven by issues other than the resolution of any current difficulties.

DESTINATION RESORTS

This section of the survey was prefaced by the following introduction. *"A destination resort is a self-contained development providing permanent residential housing, visitor accommodations and recreational facilities in an attractive natural setting. Examples of destination resort type development in Deschutes County are Black Butte Ranch, Eagle Crest, Sunriver and the Inn of the Seventh Mountain. Destination resorts are a non-farm use which state law allows on some lands zoned for farm use."*

Question 23: What do you see as the most positive impacts of destination resort development?

Nine choices were identified. Respondents indicated the following:

Creation of jobs	79% - <i>minimum wage jobs</i>
Economic development	69% - " " " "
Increases assessed value in the County	43%

Adds recreational opportunities	42%
Maintains open space	12%
Adds scenic value	8%
Provides wildlife habitat	8%
Improves quality of rural life	6%
Other	3%

- While creation of jobs was seen to be the major positive impact of destination resorts, many people commented that these were low paying and not usually family wage jobs.

Question 24: What do you see as the most negative impacts of destination resort development?

Again, nine choices were identified and people selected the following:

Strain on water resources	63% *
Traffic congestion	55% *
Impacts on wildlife habitats	37% *
Strain on public facilities	34% *
Detracts from rural quality of life	34%
Increases rural property values	25%
Rural sprawl	23%
Detracts from scenic views	8%
Other	5%

In many instances, the strain on water resources is associated with golf course facilities at resorts.

Question 25: In your opinion are there now too many, about the right amount, or too few destination resorts in Deschutes County?

Almost half, 49%, of the respondents believe there is now about the right amount of destination resorts in the county.

Too many	31%	80%
About the right amount	49%	
Too few	14%	
Don't know	6%	

- The low number of "don't know" responses indicates that people have fairly well-developed feelings on this issue.
- More inclined to believe there is now the right amount are relative newcomers (54%), people from Sunriver (68%) and La Pine (58%), those over 65 (54%) and those who believe the quality of life has stayed about the same over the past two years (56%).
- Those who are more likely to say there is now too many destination resorts are farmers (38%), Tumalo residents (43%), those in the 35-45 age group (38%) and those who believe the quality of life has worsened (40%).

- Likely to favor more resorts are those on 5 + acres (22%), farmers (23%), people in the Terrebonne area (42%) and Redmond area (20%), as well as those who believe quality of life has improved (47%).

Question 26: Present state and county regulations allow destination resorts to build up to two permanent residential housing units for each unit of overnight lodging. What is your opinion about the development of permanent residential housing at destination resorts?

Respondents were asked to choose among different ratios of housing to lodging units.

Allow at current 2:1 ratio	23%
Allow, but fewer than 2:1	19%
Allow, but at more than 2:1	10%
Do not allow it	27%
Don't know	22%

Opinion is not so definitive on this issue. 22% did not offer an opinion. A total of 33% would either allow housing at the current 2:1 ratio (23%) or even expand it (10%). 27% would seek to disallow residential housing, while 19% would allow it, but want to reduce the ratio to something less than 2:1.

Question 27: If you want to disallow or restrict the ratio of housing units to lodging units, would your opinion change if restricting or prohibiting permanent residential housing units would reduce or eliminate the resort development's economic viability?

Three-quarters of the respondents who favor prohibition or restriction on permanent housing say they would be unlikely to change their mind on this question. They are clearly opposed to additional resort development.

Question 28: Should destination resorts be allowed on any of the following lands?

	<u>Yes</u>	<u>No</u>	<u>D. K.</u>
Land that can reasonably support commercial farm use	11%	75%	13%
Irrigated land zoned for farm use	12%	73%	15%
Non-irrigated land zoned for farm use	40%	43%	18%
land that has historically been used as a farm	18%	59%	23%

The greatest support for, and least opposition to, siting additional resort developments in farm use areas is on non-irrigated land. Location of resorts on other types of lands is likely to focus strong public opposition on the project.

To summarize, the public sees the creation of jobs and economic development benefits as the key positive impacts of resort developments. They are concerned about the strain such developments put on water and wildlife resources in the area and the traffic congestion that accompanies such developments. There is a general

sense that there are enough destination resorts in the area, though not a majority interest in reducing the ratio of permanent housing to overnight lodging units. There is more public support for siting such facilities on non-irrigated land than on other farm use areas. Special consideration needs to be given to issues of water resources and traffic impacts associated with their development.

FISH AND WILDLIFE HABITATS

This section of the survey contained the following introduction. *"The County protects important rural habitats for fish and wildlife through zoning regulations, minimum lot sizes, clustering of dwellings and designation of open space."*

Question 29: Do you believe important fish and wildlife habitats are being adequately protected under the County's current regulations?

Yes	27%
No	56%
Don't know	17%

- Respondents are probably not familiar with county regulations in this area, so this result is as much a reflection of the overall concern about protecting the natural assets of the area as it is a commentary on the county regulations.
- More likely to believe that regulations are adequate are those on 5+ acre lots (32%), farmers (33%), those from the Terrebonne (48%) and La Pine areas (36%), 55-65 year olds (38%), those who believe quality of life has improved (53%) and those who say it has stayed about the same (37%).

However, across most geographic and demographic groups, a majority of people do not believe that adequate protection exists for important fish and wildlife habitats.

Question 33: In your opinion, what can be done better to protect fish and wildlife habitats in rural areas?

Respondents were asked to choose from a list of ten actions. While many people expressed difficulty in choosing among options and thought they all ought to be implemented, the most popular were:

Prohibit removal of riparian (streamside) vegetation	50%
Limit residences in important big game habitats	45%
Prohibit development in wetlands	45%
Limit development that interferes with nesting sites	36%
Limit the use of herbicides and pesticides near streams	32%
Require developers to enhance habitats	28%
Restrict fences & dogs in important big game habitats	19%
Clustering of dwellings to maximize open space	16%
Seasonal road closures	12%
Other	8%

ADDITIONAL COMMENTS

Space was provided at the end of the survey form for respondents to make any additional comments about rural lands in the county that they would like to pass on to the Board of County Commissioners. 561 respondents took the opportunity to do so and these remarks should be mandatory reading for commissioners and staff to understand, in a qualitative sense, what the quantitative numbers in the survey are all about. Samples of comments regarding growth, farming, government, development, and other issues are included in the appendix.

EXHIBIT "A"

G-12905
ARLU-DeCo.
6-29-93

TESTIMONY OF ARLU-DECO ON WATER ISSUES IN GOAL 8 MAPPING

(12 pages)

Introduction

Goal 8 must be read in conjunction with other goals. The county must take into account all other resources when evaluating appropriate siting of destination resorts. Among those resources, one of the critical ones is water. Existing reports reflect that groundwater and surface water flows in the Deschutes River Basin are extremely complex and in many cases declining. Existing data is insufficient to determine whether the water resource has the ability to handle the heavy additional draws that would result from destination resort siting.

The statutes and policies which address ground and surface water management in this state mandate extreme care. No action by the County, including mapping for destination resort siting, can lawfully result in contamination or reduction of groundwater or surface water of the state. Since insufficient data exists and potential for harm is great, more data should be required before mapping is completed.

As we all know, Deschutes County is one of or perhaps the fastest growing county in the state of Oregon. Consequently, great care must be taken to fully document the current state of groundwater and surface water resources prior to mapping of destination resort areas. It will serve no purpose or party to establish destination resort areas, which ultimately turn out to have no reasonable access to water.

Goal 8 mapping cannot reasonably be expected to ignore or overlook this critical issue. Water is the life blood of any human existence. Destination resorts must have water to flush their toilets, service their human populations, and usually to water their golf courses or other associated recreational facilities. Thus, water resource existence and condition must be a critical element in any rational mapping scheme.

Existing Problems That Must Be Considered

There are numerous problem areas that the County must take into account in its mapping process. The following are merely some of the most significant problems:

- The final recommendations to LCDC, from the working group on golf courses in EFU zones (8/15/91) must be taken into consideration in the mapping process. Golf courses are almost always attached to or associated with destination resort developments. One of the task forces critical recommendations was the need to site golf courses in areas with adequate water supply. There are, of course, many other important and relevant criteria that are discussed in that report in addition to water supply availability, that should be taken into account by the County.
- In 1991 there were already ten golf courses in the Bend area. One of these golf courses pumped an estimated one million gallons per day for irrigation. (King 1991, p.5). Additional resorts will draw additional water. Care must be taken in the mapping process to avoid areas where additional golf course construction will potentially create quantity or quality problems.
- Mapping must also take into account existing efforts to obtain "toehold developments." These are developments that are approved as smaller areas, but which the developer later endeavors to metamorphise into destination resorts.

For example, KMB Enterprises currently has a cluster development in the Squaw Creek Basin. KMB is not approved as a destination resort. Nonetheless, KMB recently (7/17/92) successfully represented to the Water Resources Department and Commission that it was a "destination resort, golf course" which should receive a quasi-municipal groundwater right. Goal 8 mapping must take into account efforts by such developments to obtain incremental increases in land use designations, which may result in "de facto" destination resorts.

- In an October 1991 technical reconnaissance report on the groundwater resources in the Upper Deschutes Basin, the US Bureau of Reclamation concluded that Clarno formations have little groundwater potential. (King, 1991 p.3) This report also noted that Deschutes formation areas have numerous perched water bodies and are subject to drainage from commingling and to depletion from high access draws. (Id.) Thus, destination resorts should not be mapped for any area that contains significant Clarno or Deschutes formations. All areas where such formations are found should be excluded from siting.
- According to King and others, most shallow aquifers in the Deschutes Basin discharge significant amounts of groundwater through springs in the canyons of the Crooked and Deschutes Rivers. A groundwater trough is found to coincide with these Rivers. Groundwater recharge flows towards the center of the trough and then along the trough towards the north. These flows are then discharges from springs into these important rivers. (King 1991, p. 4 and Frink 1968). To protect the flows of the Deschutes and Crooked Rivers then, destination resorts should not be mapped into any area where wells would potentially affect aquifer recharge flows and Deschutes and Crooked River spring flows.
- King also reported that water levels and shallow aquifers throughout the Bend-Redmond area (and probably throughout the Basin) are often directly related to conveyance losses from irrigation canals. Consequently, destination resorts would not be appropriate for any areas which have shallow aquifers. Such areas should be excluded from consideration unless, as a condition of siting, the developer is required to furnish proof that there will be no interference with or depletion of existing shallow aquifer flows.

- "Analysis" done at the behest of the Eagle Crest resort indicates that areas of the Deschutes Basin such as Powell Butte, Grizzly Butte, Smith Rocks, and Cline Buttes have rock formations with reduced permeability. It appears then, that destination resorts should not be allowed near such areas unless deep aquifer extraction is required as a condition of such siting.
- Likewise, USGS #84-4095 (water resources in Eastern Oregon) indicates that Cline Buttes is an older volcanic aquifer (OVA) which has low permeability and is generally capable of yielding only a few gallons per minute. Such OVA regions exist throughout the County. For the previously specified reasons such areas should not be considered available for resort siting.
- The County also cannot ignore the current drought. Such situations are not unheard of in the past and will undoubtedly occur again in the future. Current Soil & Water Conservation Service reports indicate that snow pack is less than 65 percent of normal. In such circumstances, regardless of whether recharge normally occurs, it will not continue to occur until the drought ends. Destination resort mapping must take into account drought years and potential problems that will occur if destination resorts are sited in areas that are subject to significant water level declines, recharge problems or contamination due to drought alterations in flow (or lack thereof).
- Well logs from a variety of wells in Deschutes County have already been submitted by Marion Mallard on 1/8/92. We incorporate these well logs by reference in our testimony. These logs show declines in water levels throughout the basin. In some cases, wells are down by as much as 25 feet. Many wells are down at the same level as readings taken shortly after the 1976 drought. This indicates the need for comprehensive review of well log information available to the County, prior to the completion of the mapping under Goal 8.

County Obligation To Protect Water Resources

The County has a duty to map in a fashion that will not harm the quality or quantity of existing water resources

for present or future instream and out of stream users. That obligation arises from many sources, including:

- 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. In mapping under Goal 8, to maintain consistency with prior planning documents, the county must take into account the goals and policies in that study.

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 cannot locate destination resorts in areas that may provide critical groundwater flow for the identified rivers and streams.

- Existing state policy is: "to protect, maintain, and improve the quality of the waters of state* * *" and to "provide for the prevention, abatement, and control of new or existing water pollution." See, ORS 468B.015(2) & (4).
- By law "Pollution of any of the waters of the state [of Oregon] is declared to be not a reasonable or natural use of such waters and to be contrary to the public policy of the state of Oregon." ORS 468B.020(1).
- Moreover, "[I]t is the goal of the people of the state of Oregon to prevent contamination of Oregon's groundwater resource while striving to conserve and restore this resource and to maintain the high quality of Oregon's high quality resource for present and future uses." ORS 468B.155.
- "Groundwater overdraft and contamination shall be prevented to avoid health hazardous, environmental damage, and costly correction programs. 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." OAR 690-410-010(1).

- As an arm of the state, the county must cooperate with other agencies of the state as well as other states and the federal government to carry out the objectives specified above. See, ORS 468B.015(5). Likewise ORS 536.220(1)(b) indicates that "a proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy * * *" (Emphasis added.)

The County is bound by the Oregon Legislature's mandate on ground and surface water management policies. Those mandates are quite clear. The county cannot lawfully act in a way that would harm surface or groundwater quality or quantity.

- Depletion of groundwater aquifers and additional increasing demands on surface water sources, which will occur upon operation of a destination resort, also runs afoul of statutory water management policies. ORS 536.310(1) specifically requires that "existing rights * * * are to be protected and preserved subject to the principle that all of the waters within this state belong to the public for use by the people for beneficial purposes without waste." Thus, existing water users in the County must be protected. When mapping for destination resort sites the county must exclude all areas that may create harmful impacts on water availability and use by existing group or individual users.
- State water policy also requires that "Competitive exploitation of water resources of this state for single-purpose uses is to be discouraged when other feasible uses are in the general public interest." ORS 536.310(5). A destination resort is a single-purpose use. In many instances, numerous other feasible uses which are more in the general public interest, such as individual, domestic, agricultural, wildlife, fisheries, or recreational uses of water will be eliminated or harmed by siting of a destination resort. In mapping, the County must make careful evaluations and explicit findings that each proposed siting area will not result in single-purpose use of that area to the exclusion of other feasible uses that are in the general public interest.
- Current state law also mandates that "Statewide programs to identify and characterize groundwater quality shall be conducted." See, ORS 468B.160(3). Given this mandate, Deschutes County must undertake

reasonable studies and evaluations of the groundwater in the Basin in order to identify and characterize that groundwater quality prior to mapping for destination resorts which will potentially lead to contamination of that groundwater.

These obligations were highlighted at a recent hearing of the Oregon Water Resources Commission. Following an agonizing debate on whether to grant a groundwater withdrawal right the Commission Chair, Lorna Stickel, specifically directed the Water Resources Department to notify Deschutes and Jefferson Counties, that insufficient information exists to continue siting destination resorts that depend on groundwater. Chair Stickel specifically recommended that:

"the department initiate a contact with the effected jurisdictions, and Deschutes and Jefferson Counties particularly, to appraise them of the fact, that it is likely that these piece-by-piece evaluations of groundwater applications are going to result in some problems and that [the commission] recommend[s] that in order for us to reach positive decisions on some of these, that we are going to have to have a better handle on a groundwater analysis theory and that it - if you leave it up to us, it is going to be awhile before we get to that * * *"

Commissioner Roger Bachman then summarized Chair Stickel's recommendations, noting that Water Resources staff should advise Deschutes and Jefferson Counties that prior to any further destination resort siting, someone must gather and analyze (or present to the Water Resources Department for analysis) more data on groundwater, or:

"we may just have to say stop all these developments until we know."

See, 7/17/92, WRC Trans. p. 11-12 (emphasis added) and tapes submitted at previous Deschutes County Planning Commission Meeting by Jen Twining.

As these statements and the forthcoming notice from the Water

Resources Department make clear, the state is very concerned that there is inadequate data on groundwater in the Deschutes Basin. Mapping of destination resorts cannot and should not be completed until adequate data on groundwater is available.

Lack Of Data Necessary To Map

Groundwater in the Deschutes Basin is a little understood, but nonetheless overused resource. The county simply does not have sufficient data to rationally map for destination resort siting at this time. This is evident from all of the following:

- At the current time, only governmental entities are required to report annual consumption of water. See 7/2/92 Water Resources Department letter to Virgil Harper. Thus, there is no real gauge for determining how much water is being consumed in the Deschutes River Basin and what the true effect of that consumption is on the Deschutes River. Some wells, for example those closest to Smith Rocks (where a destination resort area has been proposed) already show water level declines.

This is of serious concern, since much of the flow of both the Deschutes and Crooked Rivers above Lake Simitustus is based on springs that are fed by groundwater. If groundwater levels are declining, then reduced flows in the already hard hit Deschutes and Crooked Rivers cannot be far behind. In mapping destination resorts, the County must take great care to eliminate those areas where water level declines of any significant nature are evidenced.

- Deschutes County staff apparently recognizes that information necessary to determine the quantity of water available in the Deschutes Basin aquifers and the quantity of water currently being used for domestic and irrigation purposes, including golf courses, is impossible to ascertain without additional study and/or compilation of data. See for example, the 7/24/91 memorandum to planning director Read on this issue from Catherine Morrow.

- In 1984 the state Water Resources Department made findings on water resources in the Deschutes River Basin, as part of the Basis Plan. Those findings specified that:

"The existence of groundwater had been established in certain sections of the Basin, but quantities have not been determined." Plan, p.2, Finding #8 (emphasis added). To date no evidence of a County wide evaluation and analysis of the quantity of such water has been produced.

- The Basin Plan goes on to note that: "It is imperative that single purpose development of available sites does not preclude optimum utilization of the [water] resource." Id. p.4, Finding #36. Thus, it is imperative that in mapping destination resorts the county must act in a way that takes into account ground and surface water quantity and quality. Similar findings were made for all areas of the Deschutes and Crooked Rivers.
- The 1986 River Study acknowledges that "there is little information on groundwater quantity, quality, or flow characteristics in the Upper Deschutes River Basin." River study p.3-4. The study also identified the potential emergence of a problem of contamination of groundwater "and ultimately, the surface waters" due to improperly and illegally installed septic systems. This is a significant concern in mapping for destination resorts, since such resorts usually include septic systems. Extensive analysis of potential for interference with or contamination of groundwater and ultimately surface waters must be completed in order to adequately and rationally map for destination resorts.

Until adequate information about water level declines and existing resources is presented, mapping should be delayed. To map proposed destination resort areas, without knowing the condition of the water resources upon which those resorts will depend, would be irresponsible. It would be analogous to trying to shoot an apple off the head of a small child, in a crowded restaurant, in the dark. You simply don't have enough

information to know where to point, and even if you guess correctly, the probability of an inaccurate and tragic result is extremely high.

Some Suggestions

At the present time, there is insufficient data available for the county to determine whether proposed destination resort areas would affect the ground or surface water quality and quantity. Until such data is collected, mapping cannot be accomplished in a rational fashion and should be delayed.

To reduce this delay developers or other interested in pursuing mapping at a more speedy rate should be required to coordinate and produce information outlining geomorphology, ground and surface water hydrology, ground and surface water quantity and quality, and trends in water quantity and quality, throughout the Deschutes River Basin. It is not enough to require this for each proposed resort. Such a piecemeal approach is inherently unworkable in a mapping situation. Without such information on the entire Basin, the county will be flying blind in mapping destination resort areas.

The parties most suited to provide the financing for such additional data collection and analysis are those interested in profiting from destination resorts. It is only rational to place the burden of producing data to allow such mapping on those who will benefit in a private profit fashion from the existence of such mapping. After all, the burden in any siting proceeding is on the applicant.

The first step in such a process would be simple. Developers could simply collect and tabulate well logs for all known wells in the County. In fact, according to county personnel much of this information should already be in county files. The remainder could be gathered from well drillers and from well owners. These well logs can be tabulated for information on well depth originally and currently, static water levels (past and present), and the types of geological materials located during drilling.

Such a study was recently performed in the Parrett Mountain area of the Willamette Valley by untrained citizens groups. It took three to four months to compile. Think what a paid consultant could do? Although the Deschutes River Basin is a much larger area, nonetheless such a simple initial study would be relative easy, inexpensive, and quite informative. The state Water Resources Department would undoubtedly be willing to cooperate. Given the Parrett Mountain experience the agency probably has suggestions and ideas for the types of data and materials necessary. We strongly recommend that before mapping occurs the County insist that destination resorts developers create a data base of sufficient information to provide a rational basis for the in depth technical analysis and study necessary to map appropriate areas under Goal 8.

Guidelines for water curtailment planning and program development already exist. Some of these guidelines are contained in the Oregon Drought Annex, to the State Emergency Operations Plan 2/91. Others are available from the Water Resources Department. These guidelines contain a basic outline

of the types of questions and analysis that Deschutes County must force resort developers to complete, in order to rationally take into account in the mapping process whether water supplies are adequate, whether future health impacts, future resource impacts, and future land use impacts will occur as a result of water resource implications. Until the data necessary to make rational and reasonable decisions on water resources impacts resulting from siting of destination resorts is collection, mapping for destination resorts is premature.

Thank you for your time and for what we hope will be your in-depth study and response to each of the points we have raised.

Habitat Degradation May Push Grouse To Extinction

By Richard C. Ridenour
For The Bend View

East of Bend, in the still-dark and starless morning sky, the rushing whisper of big wings passing overhead is murmured again and again.

When dawn finally comes, if you haven't seen the Sage Grouse Strutters' Ball before, you might decide you've stepped through the looking glass.

Black birds about the size of chickens appear at the edge of a sage sea, where the sage breaks around an island of open ground.

They wear Darth Vader helmets. Their breasts are white and marked by a dark slash on each side, like ermine trim on a robe for Henry VIII.

They pace stiffly back and forth, spreading spiked tail feathers in a fan reminiscent of a punk haircut.

They inflate air sacs to double the size of their breasts—the slashes open, like incredulous eyes, to allow for expansion.

They dip like a sax player catching a hot riff and rise on tiptoe—spreading their wings like bat capes, they fret the air out of the breast sacs: *Boingk, boingk, boingk*, like a bass string breaking inside a drum.

They twist and turn and check out their neighbors, maybe hunkering down and taking a rush at one who's moved in too close.

These are male sage grouse strutting at the lek.

Lek, according to Ted Wise, Habitat Protection Biologist for the Bend office of ODFW (Oregon Department of Fish and Wildlife), is a biologist's term for the area where the big black male grouse come to stake out territory for the right to display themselves to the females they hope will arrive.

Strut is the term for the territorial mating-display dance.

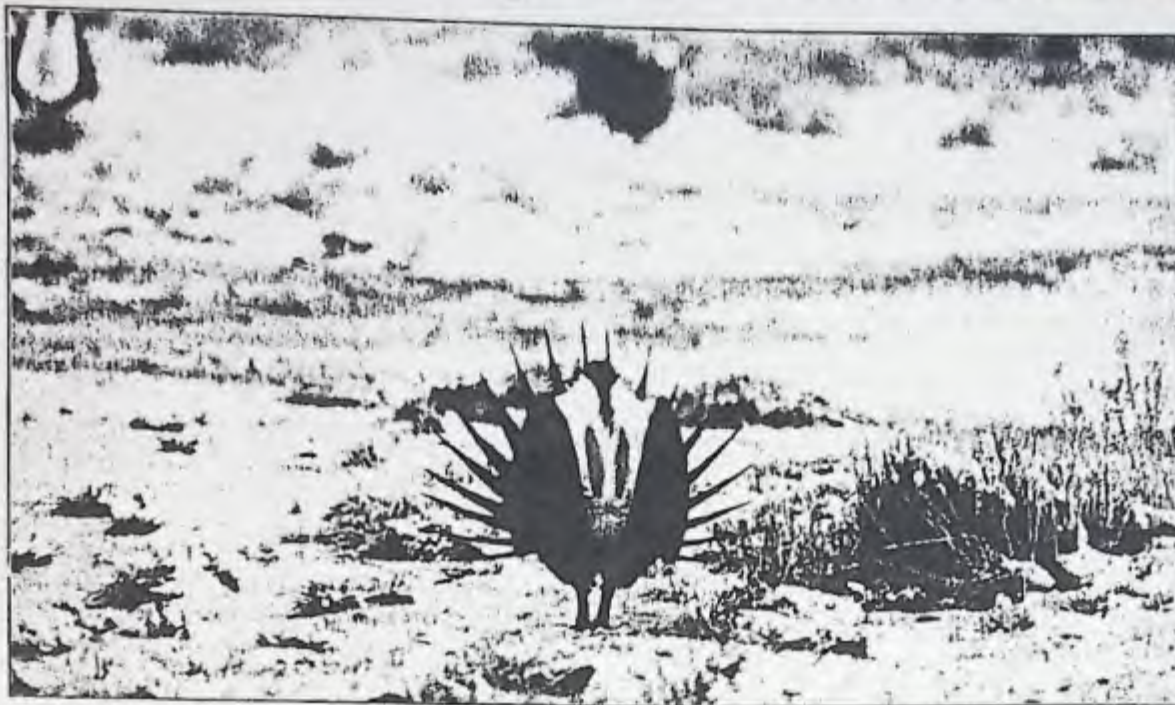
Sage grouse live in a high desert habitat known as sagebrush steppe, a historical habitat reduced by agriculture and still being threatened.

With the exception of high areas like the Blue Mountains, steppe habitat once covered much of Oregon and Washington east of the Cascades, as well as some of northern California.

In Oregon, Wise said, the northern steppe habitat was lost to cultivation. Remaining steppe in Oregon is restricted (with the exception of the high, forested country) to the southeastern quarter of the state. And not all of the remaining steppe supports sage grouse.

Even more alarming, however, is that in areas of historic grouse habitat, grouse numbers are declining.

Bureau of Land Management (BLM) biologist Paul Schmidt recounted the numbers on a recent



The distinctive strut of the male sage grouse's mating dance is becoming increasingly rare in the high desert as more and more of its historic range is lost to habitat degradation. According to some biologists, there is talk of seeking endangered species status for the once plentiful birds.

Photo by Richard C. Ridenour

cloudy, gray high-desert morning at a lek east of Bend.

"In the '60s there were 81 birds here," he said. "Today there are 12."

Sage grouse authority, Dr. John Crawford, wrote in the March 1982 issue of "Oregon Wildlife."

"Regardless of short-term fluctuations or long-term periodic changes, the trend of sage grouse population has been downward for the past 30 years."

Although differences between past and present count methods may account for some apparent population fluctuations, Norm Behrens (wildlife biologist, Deschutes District), Steve George (assistant wildlife biologist, Deschutes District), Schmidt, and Wise agree the trend has continued down.

Although ODFW isn't ready to settle on a reason for declining numbers since beginning the current study, Wise said he was partial to habitat degradation, pointing to the grouses' dependence on a variety of habitats.

They require areas of short, open sage, with high visibility for strutting. They also require areas of high sage and high grass for nesting and because they nest on the ground, high growth is critical to protection from predators.

Throughout their habitat, all sage grouse depend heavily on a variety of forbs (a biologist's term for flowering annuals and perennials except grasses), especially the females in spring.

Essentially, the adult grouse diet consists of forbs in spring, summer, and fall. Winter range is the tall sage, where the birds feed on sage sticking

above the snow.

Overgrazing, Wise said, has destroyed the grass and forbs. He pointed to the ground at a lek: no forbs, no grass—just cow pies and scrub sage.

Too, he observed, human activities increase predator populations.

Cattle operations, for example, provide food such as afterbirth, dead animals, and garbage for ravens and coyotes. That creates a healthy predator force preying on a weak and declining grouse population, he explained.

Combine habitat degradation with increased predation, Wise explained, and you've doubly handicapped the

grouse.

Too, Wise added, absence of fire (the result of fire suppression and overgrazing) leads to old-growth sage, pretty to look at but missing the food variety necessary to sage grouse.

And what does Wise say about a winter like the last one, with the greatest snow accumulation of the century?

"It's too early to tell," he said. "We're just starting to get the numbers. Remember what we counted this morning? Twelve birds at one lek, 14 at another, five at another. They were all males. We counted only two females, and they were alone at a separate lek."

But Wise agreed when Schmidt

pointed out the importance of many counts during the strutting season because of variables, including human interference.

Wise and Schmidt nevertheless agree grouse numbers are in decline—serious enough decline that Wise said he's heard some conservation groups in Washington state, possibly some in Oregon, are talking about endangered species status for the grouse.

Wise and Schmidt agreed, too, on exercising care when observing the grouse, especially during mating season. The breeding period is short (about 1.5 months), Wise noted, adding: "If our disruption prevents the birds from breeding, we lose the year's production of birds."

Agencies don't therefore publicize the location of leks, although a couple are well known locally.

For those who want to watch the dawn ritual, Wise said to check with ODFW or BLM. Depending on conditions, they may direct watchers to one of the better-known leks.

If you go, Wise requested that you:

- arrive well before daybreak so you don't disturb incoming birds;
- not drive into the lek; and,
- stay back at least 100 yards, preferably 200.

EXHIBIT "J"

G-12406
APRIL-DECEMBER
6-29-93

JUN 8 1993

WATER RESOURCES DIVISION
SALEM, OREGON

EXHIBIT "I"

G-12905
ARLU-DECO.

6-29-93

(15 PAGES)

EAGLE CREST, PHASE II TESTIMONY OF ARLU-DECO ON WATER

Summary

The STATE has an obligation to act with extreme care, when considering whether to approve new water consumptive uses like Eagle Crest Phase II. The statutes and policies which govern ground and surface water management mandate that no action by the STATE result in contamination or excessive reduction of groundwater or surface water. It is these statutory mandates, not political or economic concerns, which must govern this permitting process.

As the applicant for a permit ~~for~~ WATER, Eagle Crest is the party who bears the burden of proof. On any issue where the STATE has any doubts or concerns about compliance with County and/or State law and policy, the Permit must be denied. Only by "defaulting" on the side of denial rather than development can the County carry out its obligations to its current and future citizens.

The information before the Department shows that Phase II of Eagle Crest may result in potential harm to the water resources. At a minimum, the record indicates that additional information is necessary to get an accurate picture of the projected impacts.

RECEIVED

JUN 30 1993

WATER RESOURCES DIVISION
SAND COUNTY

Burden Of Proof Is On Eagle Crest

As the applicant for a license or permit, Eagle Crest bears the burden of proof on all issues. This is a fundamental tentative administrative law.¹ Too often the opponents of a potentially destructive project are told "you didn't prove there would be a problem, so we are going to go ahead and issue a permit." The answer to that is simple. We, the public, don't have to prove anything. It is Eagle Crest who must prove that no harm will occur. The burden is on them, not on the public or the Department.

In Oregon, as in most states, the phrase "burden of proof" has two distinct parts. First, the burden of producing evidence, sometimes called the burden of production. Second, the burden of persuasion.² Judicial decisions from around the nation almost universally agree that the burden of proof

¹ See generally, Am. Jur. 2d., Vol. 82, Zoning and Planning § 308, and C.J.S., Vol. 73A, Administrative Law and Procedures, § 128. See also, Teledyne Wah Chang v. Energy Fac. Siting Council, 298 Or. 240, 248-49, 692 P.2d. 86 (1984). (Since the challenged agency proceeding was review of an application for a license, burden of proving entitlement to the license was properly imposed on the applicant.)

² See Jurgenson v. Union County Court 42 Or App 505, 510, 600 P2d 1241 (1979) (In land use proceedings, burden of proof is on party seeking a change) and Fasano v. Washington County 264 Or. 574, 586, 507 P2d 23 (1973) (The greater the change the greater the burden).

³ See, Cameron Logging v. Jones, 109 Or App. 391, 394, 820 P.2d. 8 (1991) and Hansen v. Oregon-Wash. R & N. Co., 97 Or. 190, 210, 188 P. 963 (1920) ("The phrase 'burden of proof' has two meanings. One, to express the idea that a named litigant must in the end establish a given proposition in order to succeed; the other, to express the idea that at a given stage in a trial it becomes the duty of a certain one of the parties to go forward with the evidence.")

(including both production and persuasion) lies upon the applicant for a license or permit.⁴

Here, Eagle Crest is the applicant. Eagle Crest bears both the burden of producing evidence and the ultimate burden of persuasion throughout this proceeding. This makes perfect sense, since Oregon law is founded on the idea that both the ground and surface waters of the state belong to the people and are held in trust for the people by the state. See, ORS 527.110, ORS 536.310(1) and ORS 537.334(2). It would not make sense to place the burden of proving that a proposed change will not cause harm, on either the people who already own the resource or on the trustees for those people. The "role" of government (in this case the STATE) is to ensure protection of the water resources for current and future generations.⁵ Unless or until Eagle Crest demonstrates with convincing evidence that it meets each and every criteria of state and County law, ANY WATER PERMITS should be denied.

⁴ See, e.g., Johnson v. Moore, 752 SW.2d. 293, 294, (Ark. App. 1988) (burden of proof on applicant for a liquor license); Power Authority of New York State v. Williams, 475 NYS2d. 901, 903 (App. Dept. 3, 1984) (burden on applicant for Clean Water Act § 401 certification); Matter of Stone Creek Channel Improvements, 424 NW2d. 894, 898 (N.D. 1988) (burden on applicant for drainage permit); Holly v. Bates, 81 A.2d. 151, 154 (N.J. Sup. Ct. 1951) (burden on applicant for nursing home license); Schramm v. Physicians Physical Therapists Examining Board, 219 A.2d. 846, 847-848 (D.C. App. 1966) (burden on applicant for a Therapist license); and Caldarone v. Zoning Board of Review, 60 A.2d. 156, 159 (R.I. Sup.Ct. 1948) (burden on zoning permit applicant).

⁵ See, e.g., Fed. of Seafood Harvstrs. v. Fish & Wild. Comm., 291 Or. 451, 457-458, 632 P.2d. 777 (1981) (Applying this analysis to a denial of a hatchery permit by the Oregon Department of Fish & Wildlife).

Moreover, a denial is always essentially temporary. Well drilling, septic systems, construction and property purchases are not. Eagle Crest is free to reapply for a permit any time new information is developed which proves that harm will not occur. If a permit is granted without full, careful and accurate analysis of the potential harmful impacts of this PERMIT, future generations of Deschutes County residents will not have that luxury. The damage will be done.

Applicable Law On Protection of Water Resources

The County has a duty to implement its land use plans in a fashion that will not harm the quality or quantity of the water resources. This obligation arises from many sources. One source is the County land use codes, plans and policies. THE DEPT. MUST BECOME FAMILIAR WITH THESE AS REQUIRED BY OAR 690-11-195(4). Other sources are the Oregon Revised Statutes and the Administrative Rules promulgated by the state agencies charged with management of these public water resources.

A. Applicable State Statutes:

Controlling state law is clear. The STATE may act only if it is certain that the approval will: "protect, maintain, and improve the quality of the waters of state* * *" and "provide for the prevention, abatement, and control of new or existing water pollution." See ORS 468B.015(2) & (4)

(emphasis added). Pollution of any of the waters of this state is not a reasonable or lawful use and is contrary to the public policy of the state of Oregon. See ORS 468B.020(1).

Moreover:

"[T]he goal of the people of the state of Oregon [is] to prevent contamination of Oregon's groundwater resource while striving to conserve and restore this resource and to maintain the high quality of Oregon's high quality resource for present and future uses." See ORS 468B.155.⁶

No action by the DEPT. can lawfully violate these controlling provisions of state law. The DEPT. must cooperate with other branches of the state as well as other states and the federal government to carry out the objectives of these laws. See, ORS 468B.015(5). It is for precisely this reason that ORS 536.220(1)(b) specifies that "a proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy * * *" (emphasis added)

The DEPT. is bound by these mandates on ground and surface water management. Depletion of groundwater aquifers below sustainable levels, contamination from septic systems and pesticide or fertilizer use, and changes in Deschutes River flows may occur if expansion is allowed. Each of these run afoul of the outlined statutory policies.

⁶ OAR 690-410-010(1) similarly provides "Groundwater overdraft and contamination shall be prevented to avoid health hazardous, environmental damage, and costly correction programs. 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." (emphasis added).

In addition, ORS 536.310(1) specifically requires that "existing rights * * * are to be protected and preserved subject to the principle that all of the waters within this state belong to the public for use by the people for beneficial purposes without waste." Thus, prior to receiving a permit to expand Eagle Crest must demonstrate TO THE DEPT.'S satisfaction that all existing water users in the County (particularly, those located near the expansion) will be protected.

This is also consistent with the requirement that "Competitive exploitation of water resources of this state for single-purpose uses is to be discouraged when other feasible uses are in the general public interest." ORS 536.310(5) (emphasis added). An expansion of Eagle Crest would be a defacto allocation of an enormous amount of water to a single-purpose use. In many instances, other feasible uses which are more in the general public interest (such as individual, domestic, agricultural, wildlife, fisheries, or instream recreational uses of this water on the various rivers fed by the aquifer to be drawn upon) could be prohibited by authorization of this expansion, AND ADDITIONAL WATER PERMITS.

Returning briefly to the burden of proof issue, state law mandates that "Statewide programs to identify and characterize groundwater quality shall be conducted." See, ORS 468B.160(3). Given this mandate, THE DEPT. must require Eagle Crest to undertake all additional studies and analysis necessary to demonstrate that the proposed use will not violate

or contravene any of the applicable County and State policies.

The obligations placed on the County, and the lack of confirmed and reliable information on groundwater impacts from this expansion, were highlighted by the recent (10/2/92) letter sent to Deschutes, Jefferson and Crook Counties by the Director of the Oregon Water Resources Department (copy attached). That letter specifically notes that until additional, more comprehensive information on groundwater hydrology has been produced "it is possible that [water use] permit denials will be more common than permit approvals."

The Water Resources letter is dated 10/2/92. Eagle Crest has not, to Arlu-Deco's knowledge, submitted any information quantifying and evaluating the groundwater resource (or the projected impacts on that resource) since September of this year. This predated the Water Resources Department letter. Thus, in making its permit decision the County must take into account that, at present time the agency charged with overseeing management and evaluation of ground and surface water in this state holds the view that groundwater information in Deschutes County is currently inadequate. In light of this, and the coordination mandates of ORS 536.220(1), ORS 468B.015(5) and ORS 468B.160(3), permission to expand and begin Eagle Crest Phase II must be denied at this time. THIS INCLUDES DENIAL OF WATER PERMITS BY THE DEPARTMENT.

B. County Land Use Plans, Policies and Codes

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. In evaluating a proposed expansion of Eagle Crest the County must be consistent with these published goal and objectives. Thus, Eagle Crest must demonstrate and the County^{AND THE DEPT.} must evaluate compliance with the following:

- (1) The need to increase Deschutes river instream flows from Wickiup Reservoir to Lake Billy Chinook;
- (2) Stream flows in the little Deschutes River and all tributaries must be maintained at current levels, so that flows for irrigation, fisheries, wildlife and recreation needs are met; and
- (3) Stream flows below the north canal dam, below the irrigation diversion in Tumalo creek, and below the main irrigation diversions in Squaw Creek must be increased. See River Study p. 13-2 through 6

The DEPT. cannot agree to a PERMIT until Eagle Crest demonstrates that it will not harm groundwater that may provide critical flows for these streams.

Likewise, prior to approval of any expansion plans, detailed findings on consistency and compatibility with each provision of The County plans, policies and codes must be made. In the interest of time Arlu-Deco will not outline all of these provisions. However, we incorporate those provisions by reference and look forward to the detailed analysis of how each piece of evidence in the record bears on each of the applicable provisions of County and State law.

Safety Concerns

The area of the proposed expansion (Cline Falls vicinity) is a known active fault. See Kienle, Hamill & Lite (9/30/83), "Site Description Memorandum #4 - Earthquake and Fault Study of Detroit Lake and Vicinity", U.S. Army Corps. In fact, this fault may be one of the most recently active sites in the state. Id. Arlu-Deco questions whether the seismic design plans and specifications for the expansion meet current safety and earthquake planning codes. Until the applicant presents a complete analysis of this issue expansion should be denied.

Need For Water Curtailment Plans

Guidelines for water curtailment (including low flow water devices) planning and program development are available in the Drought Appendix, to the State Emergency Operations Plan (2/91). Additional guidelines and rules are available from the Water Resources Department. These guidelines contain a basic outline of the types of questions, analysis and mandatory plans

AND STATE
that Eagle Crest must provide, for the County¹ to rationally assess whether water supplies are adequate, whether future health impacts, future resource impacts, and future land use impacts will occur as a result of this proposed expansion.

Hydrology And Contamination Concerns

The County's independent consulting Hydrologist (J. Gonthier) indicates that more data and analysis should be required of Eagle Crest. In addition, in the Appendix to his 10/92 critique Gonthier outlines three pages 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." In light of the statutory and planning mandates under which the County is operating this is significant oversight.

The 1986 Deschutes River Study acknowledges that "there is little information on groundwater quantity, quality, or flow characteristics in the Upper Deschutes River Basin." River study p.3-4. The study also identified the potential emergence of a problem of contamination of groundwater "and ultimately, the surface waters" due to improperly and illegally installed septic systems. This is a significant concern in the Phase II expansion proposal, particularly given the ongoing apparent surface pollution problems at the existing resort. Gonthier did not analyze the Eagle Crest report on

"Contamination Potential." Given the problems identified in the Hydrology Study, a detailed critique of the Contamination report should be completed before any permitting decision is made.

For example, the Report assumes that the natural drainages in the expansion will remain "normally dry". Newton (9/92) p.4. Based on that assumption and the additional supposition that moisture available in the area will remain insufficient to saturate the ground (Id. p.10) the Report concludes that the potential for groundwater contamination is "very low." Unfortunately, this "analysis" overlooks critical facts.

Once Eagle Crest Phase II is in place, natural drainages will be inundated with runoff from constant irrigation of the proposed additional golf course, lawns, gardens and grounds. This same irrigation will result in enormous amounts of moisture, which may well be ample to saturate the ground and cause a downward moving "saturation front" that could contaminate the principle aquifers. Eagle Crest's report fails to address the situation.

In addition, we note that some times it is what a report does not say that is equally as important as what it does say. Here, the Eagle Crest Report does not say contamination will be "prevented" or will not occur, as is required by county code and by state law. Instead the Report concludes that the chance of contamination is "very low." Unfortunately, if this supposition is incorrect the cost of

cleanup is anything but "very low." The County cannot afford to speculate. Only if the County is convinced that no contamination will occur at any time should a permit for expansion be issued.

In closing, it is plain that the analysis submitted to date by Eagle Crest is insufficient to allow the County to rationally determine whether the water resource has the ability to handle the heavy additional draws and whether contamination could result from an expansion of the existing resort. Analysis which assumes that post construction conditions will be the same as pre-construction, tells only half the story. Although it is an important half, it is by no means sufficient to meet Eagle Crest's burden of demonstrating compliance with applicable State and County policy. Under the circumstances we urge denial OF G-12905 AT THIS TIME.

EXHIBIT " "

Oregon

September 14, 1992

The Honorable Dick Maudlin, Chair
Deschutes County Commission
1130 NW Harriman
Bend, OR 97701

G-12905
ARLU-DeCo.
6-29-93

WATER
RESOURCES
DEPARTMENT

The Honorable Daniel Ahern, Chair
Jefferson County Commission
75 SE C St.
Madras, OR 97741

The Honorable Lynn Lundquist, Chair
Crook County Commission
Crook County Courthouse
300 E. Third St.
Prineville, OR 97754

Dear Commissioners:

We are writing to you jointly to bring to your attention a matter of growing concern—the condition of the groundwater resource in central Oregon—and to ask for your help.

Increasingly, the Water Resources Commission and Department are faced with very difficult questions surrounding applications for groundwater use permits in rapidly developing areas. Under state law, the Commission is charged with: assuring an adequate and safe supply of groundwater for human consumption; determining and maintaining stable groundwater levels; and preventing depletion, impairment and waste of groundwater. [ORS 537.525]

The Commission's approval of a request to use groundwater is predicated on these statutory mandates. Historically, when use of the state's groundwater resource was, in relative terms, small, the risk of depleting aquifers through permit issuance was correspondingly low. With Oregon growing at twice the national rate, 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 the Commission's recent experience with applications for groundwater use for destination resorts in central Oregon. To the extent these developments represent demands not unlike that of small cities, the potential impacts on the groundwater resource can be great. In addition, impacts on nearby established users of the



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resource, as well as on surrounding creeks and springs can also be significant. All of these issues were brought to the Commission by concerned citizens in the public interest review process. The issues were not easily resolved. Various interests presented differing, often conflicting, interpretations of project impacts from exercise of the proposed groundwater rights. Ultimately, the Commission made its decisions based on the best available, albeit limited, information. With ever-increasing requests and without more data, however, at some point a reasonable doubt is reached whether increased groundwater use is sustainable. We are very near, if not at, that point in many areas of the state, including parts of central Oregon.

The groundwater information base will never be perfect. However, in many areas it must improve substantially before the Commission can both issue additional permits and meet its obligation to protect the groundwater resource. Through its statewide Groundwater Assessment Program, the Water Resources Department is attempting to establish the extent and capacity of the state's aquifers. Given staff and resource constraints, however, sufficient data may not be available for sound decision-making for some time to come. 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.

* We want to convey to you as clearly as we can that it is no longer safe to assume that obtaining a groundwater use permit is a formality. Without better information, it is possible that permit denials will be more common than permit approvals. Such actions on our part could, of course, have major impacts on local government actions as you seek to implement your comprehensive land use plans. Accordingly, I hope we can build a strong state/local partnership to address our mutual research and planning needs. Some initial ideas on how counties might participate in the process include supporting funding for or cooperating in comprehensive groundwater investigations, requiring additional groundwater analysis and information for certain land use decisions, or phasing development projects contingent upon results from groundwater monitoring. The recently initiated dialogue among Bend, Deschutes County, and the U.S. Geological Survey about a potential groundwater study may offer an especially timely opportunity to combine local, state, and federal resources to generate the information we all need.

We appreciate the interest that you and the citizens you represent have shown in water resources to date. We would like to build on that interest by working with you to move from some of the general concepts in this letter to more specific on-

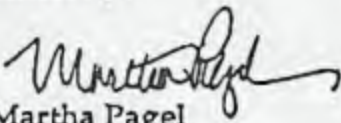
D-2

Commissioners Maudlin, Ahern, Lundquist
September 14, 1992
Page 3

the-ground solutions. The Water Resources Department would welcome the opportunity to meet with you individually, or in a more regional forum, to discuss specific water resource data generation options or water management alternatives.

If you have any questions or suggestions for follow-through, please contact Fred Lissner, manager of the Department's Groundwater and Hydrology Section (378-8455, ext. 204). Thank you for your consideration.

Sincerely,


Martha Pagel
Director

rab:RAB

cc: George J. Read, Planning Director, Deschutes County
Bill Zelenka, Planning Director, Crook County
Chuck McGraw, Planning Director, Jefferson County
Denny Newell, Executive Director, Central Oregon Intergovernmental Council
Bill Blosser, Chair, LCDC
Senator Peter Brockman
Senator Wayne Fawbush
Senator Eugene Timms
Representative Bev Clarno
Representative Mike Nelson
Representative Bob Pickard
Fred Lissner, WRD, Manager, Groundwater and Hydrology Section
Bob Main, WRD, Manager, South Central Region
Rick Bastasch, WRD, Manager, Water Resources Coordination Group

WaterWatch

O F O R E G O N

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

Water Resources Department
G-12905
Page 2

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.

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Page 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

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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

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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

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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."

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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

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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,

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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.

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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.

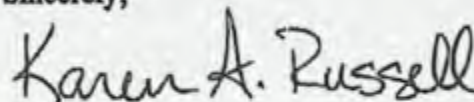
This condition states that in the event of a request to transfer the point of diversion, add a point of diversion, or to change the diversion facility, the amount of water allowed in the transfer, along with "any other right, shall not exceed the capacity of the facility at the time of perfection of 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.

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♦ 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,



Karen A. Russell
Legal Affairs Coordinator

State of Oregon
Water Resources Department

INTEROFFICE MEMORANDUM

Date: 4-9-93

TO: Steve Applegate, File
FROM: Rob Carter, Well Construction Specialist 
SUBJECT: Eagle Crest G-12905

I have had an opportunity to discuss the above well construction with Kyle Gorman, the reviewing Hydrogeologist. In his review, he questions the placement of Bentonite below 25 feet and the seal interval in general.

The use of bentonite from 90-100 feet is to seat the casing in the hole and prevent downward movement of surface water past the casing. The placement of bentonite at this level, therefore, would not be considered in violation of our sealing requirements as it is not intended as a surface sealant.

The water producing zone from 608-615 feet is currently under artesian pressure. The static water level is 528 feet. According to OAR 690-210-120, the well must be sealed at least 5 feet into the confining formation above the water bearing zone. The confining zone, according to Kyle, occur from 442-608 (hard basalt/andesite). I would concur with this determination.

According to the well report received by the Department in Oct. of 1991, seal extends to 50 feet. According to Kyle, a amended log has been submitted by Staco which places the seal to 100 feet.

To repair the well, the seal should be extended to a minimum of 447 feet. This could be accomplished in a number of ways including, but not limited to:

1. Utilization of shale traps and 6" inner casing grouted to the required depth.
2. Placement of a packer to the required depth.
3. Over-ream and remove existing casing, under-ream 10" hole at required depth, and replace casing. Place surface and bottom seal.

I will contact Chuck Stadeli and inform him of the needed repair. I will keep you comprised of events.

Thanks,

Rob

PERMIT CNDTNS

language re interference so wtr rt will
at "interference"

Well 6"
SWSE 15
962N 823E
5 X 1500 15
15512E

EAGLE CREST

land use obj w/w - Rick B. will get new
written authorization land owners
sweeping approp ground & studies
to protect resources

Land use Goal 5
prop rts
WA

PERMIT CNDTNS

language re interference so wr it will
elim. "substantial" interference

EAGLE CREST

land use obj WA - Rick B. will get me
land use ~~study~~
written authorization land owners
sweeping approp groundw & studies
to protect resources

Land use Goal 5
prop rto
WA

STEVE

HERE IS A PRELIMINARY T.R. & COVER LETTER

1. BASED ON 900 FAMILIES & OUR RULE OF THUMB 0.03 CFS 6-10 FAMILIES
FEE REFUND OF \$5
2. 'C' DATE IS 2002. WILL THAT DATE HAVE
TO BE CHANGED? TO 1997?
3. NO EASEMENTS TO WELL SITES.
4. NO LAND APPROVAL. COUNTY SAID CONDITIONAL USE
PERMIT & SITE PLAN REVIEW NEEDED
5. LET'S JUST GO WITH WHAT WE HAVE.

Tom

File G12905-

4/7/93

I received this file for S. Brown.

The major concerns base land use and comments from county and could a TR be completed.

Based upon review of Div 11 Brown & I concurred that a TR could be completed, if a permit condition was added to TR about noise until land use approvals were made; and TR should address this land use issue. TR should identify that land use is not complete, but all indications in file lead us to believe that land use will be approved because the pit is existing, all governmental groups think this beneficial, and county has not indicated a no will result from conditional use.

When TR is complete let Park know. file
Need response to Rep Clarno —

MEMORANDUM

WATER
RESOURCES
DEPARTMENT

To: File G-12905

Date: February 19, 1993

From: Steve Brown

Subject: Status of file

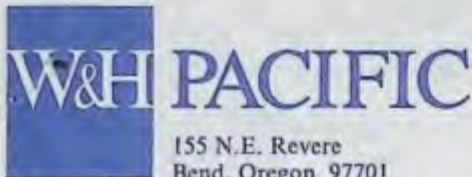
I instructed Tom Walker to submit current land use information regarding the approval of the project by Deschutes County.

Until such time, no action to complete the technical review should be made.

1019



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



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Services

To: MR. STEVE BROWN
OREGON WATER RESOURCES DEPT

Date: 2-22-93

Project Number: 526-01-01

Project Name: EAGLE RIDGE DEVELOPMENT CORP.

Regarding: WATER RIGHT APPROPRIATION
APPLICATION - OWRD FILE # G-12905

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

We Are Sending:

☒ Attached

☒ Facsimile

6 Number Of Pages Including Cover

☐

These Are Transmitted:

☒ For Your Info/File

☒ As Requested

☒ For Review And Comment

☐

Copied To:

BILL LYCHE

Copies	Description
<u>1</u>	<u>UPDATED (2-22-93) LAND USE COMPATABILITY STATEMENT</u>

Comments

Signed

Tom Walker

Description of Water Use

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

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

Applicant Name: EAGLE RIDGE DEVELOPMENT CORPORATIONAddress: P.O. BOX 1215
REDMOND, OREGON 97756Phone: (503) 923-0807

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

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☒ Residential (# units, single or multi-family, # lots if partition or subdivision): Approximately 900
equivalent dwelling units, including 450 single-family, 150 multi-family, and 250 rooms.
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.): _____
- ☐ Fish and Wildlife (pond, hatchery, etc.): _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☐ Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	<u>4.01</u> Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
☐ Reservoir or pond	
☒ Ground Water	

development including an explanation of when facilities will be provided and how they will be secured if not completed prior to closure of sale of individual lots or units;

* i. An explanation of how the destination resort has been sited or designed to avoid or minimize adverse effects or conflicts on adjacent lands. The application shall identify the surrounding uses and potential conflicts between the destination resort and adjacent uses within 660 feet of the boundaries of the parcel or parcels upon which the resort is to be developed. The application shall explain how any proposed buffer area will avoid or minimize adverse effects or conflicts;

j. A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services including fire and police protection;

k. A study prepared by a hydrologist, engineering geologist or similar professional certified in the State of Oregon describing:

1. An estimate of water demands for the destination resort at maximum buildout, including a breakdown of estimated demand by category of consumption, including but not limited to, residential, commercial, golf courses and irrigated common areas;

2. Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area;

* 3. A water conservation plan including an analysis of available measures which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conserva-

tion plan shall include a waste water disposal plan utilizing beneficial use of reclaimed water to the maximum extent practicable.

For the purposes of this section, beneficial uses shall include, but are not limited to:

X i. Irrigation of golf courses and greenways;

X ii. Establishment of artificial wetlands for wildlife habitation.

l. An erosion control plan for all disturbed land, as required by ORS Chapter 468. This plan shall include storm and melt-water erosion control to be implemented during all phases of construction and permanent facilities or practices for the continuing treatment of these waters. This plan shall also explain how the water shall be used for beneficial use or why it cannot be used as such;

m. A description of proposed sewage disposal methods;

n. Wildfire prevention, control and evacuation plans;

o. A description of interim development including temporary structures related to sales and development;

p. Plans for owners' associations and related transition of responsibilities and transfer of property;

q. A description of the methods of ensuring that all facilities and common areas within each phase will be established and will be maintained in perpetuity;

r. A survey of housing availability for employees based upon income level and commuting distance;

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

1. An analysis which addresses the economic viability of the proposed development;

2. Fiscal impacts of the project, including changes in employment, increased tax revenue, demands for new or increased levels of public services, housing for employees and

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.

c. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.

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 § 1. 1992)

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.

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.

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.

L. The waste water disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's 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.

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

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.

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

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

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

Applicant's Name: EAGLE RIDGE DEVELOPMENT CORPORATION
Address: P.O. BOX 1215
City: REDMOND State: OR Zip: 97756 Day Phone: (503) 923-0807

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

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
TL 1500	T15S R12E EFU 40	X	X	DOMESTIC
TL 100 & 101	T15S R12E SECTION 22 EFU 40	X	X	DOMESTIC
TL 1500	T15S R12E SECTION 23B EFU 40	X	X	DOMESTIC

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

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

For Local Government Use Only

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

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

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

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

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily
Conditional Use	Ch. 18.113 of Title 18			✓
Subdivision Approval	Title 17 of D.C.C.			✓

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

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

City or County: _____

Staff Contact: _____ Phone: _____

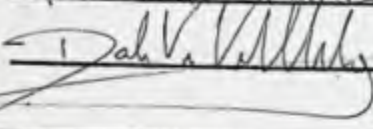
Signature: _____ Date of Information Request: _____

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: Dale Van Valkenburg

Title: Associate Planner

Signature: 

Date: 2-22-93

Phone: 388-6575

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

Additional Comments:

Applicant has applied for all relevant land use
applications. Review process is currently stalled
due to circumstances beyond applicants
control.

See specificall section 18.113.050(B)(K) attached.

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.



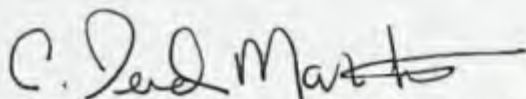
3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,



A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Clifford T. Thomas
3201 S.W. 73rd
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

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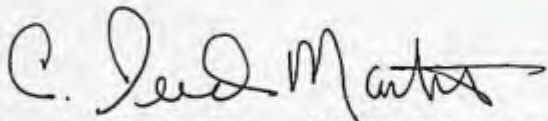
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If you have any questions, please call us in the Water Rights Division.

Sincerely,

A handwritten signature in dark ink, appearing to read "A. Reed Marbut", with a stylized flourish at the end.

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

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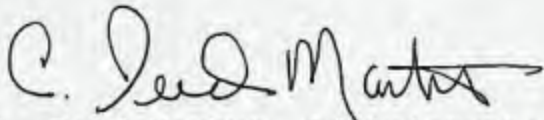
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A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

March 29, 1994

WATER
RESOURCES
DEPARTMENT

Jan Twining, Executive Director
ARLU DeCo
c/o Sandra Sands
P.O. Box 1508
Sisters, OR 97759

Re: Application File No. G 12905, Eagle Ridge Development Corp.

Dear Ms. Twining:

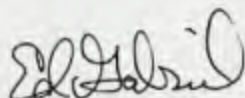
Under separate cover I have enclosed the Staff Report to the Water Resources Commission for Application File No. G 12905 submitted by Eagle Ridge Development Corp. I have also enclosed a copy of the Commission's agenda.

The protest which you submitted was received timely and in the proper form with the proper fee. All applications which are protested are referred to the Water Resources Commission.

The Commission meeting will be held Friday, April 8, 1994, beginning at 8:30 a.m. in the City Council Chambers, Roseburg City Hall, Roseburg, OR,

If you have any questions, please call.

Sincerely,



Ed Gabriel
Senior Water Rights Examiner
Water Rights and Adjudications Division



March 29, 1994

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

WATER
RESOURCES
DEPARTMENT

Re: Application File No. G 12905, Eagle Ridge Development Corp.

Dear Ms. Sands:

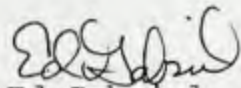
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If you have any questions, please call.

Sincerely,



Ed Gabriel
Senior Water Rights Examiner
Water Rights and Adjudications Division



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

RECEIVED

MAY 17 1994

RESOLUTION OF THE BOARD OF DIRECTORS OF WATER RESOURCES DEPT.
EAGLE CREST MASTER ASSOCIATION SALEM, OREGON

The undersigned, constituting a majority of the duly elected and qualified directors of the Eagle Crest Master Association, an Oregon nonprofit corporation (the "Association") do hereby adopt the following resolution:

WHEREAS, the Association owns and operates two wells for the delivery of water in Phase I of the Eagle Crest resort, also known as Permit Nos. G-10530 and G-10957 (the "Eagle Crest I Wells"); and

WHEREAS, Eagle Ridge Partners Ltd. is developing another well that will provide water to Phase II of the Eagle Crest resort as well as a backup supply of water for Phase I (the "Eagle Crest II Well"); and

WHEREAS, as a condition of approval of a water right permit for the Eagle Crest II Well, the Oregon Water Resources Commission has requested that the proposed conditions for that well be incorporated into the water right permits for the Eagle Crest I Wells;

NOW THEREFORE, be it resolved that the Association hereby consents to an amendment, *as requested by the Oregon Water Resources Commission,* to the water right permits for the Eagle Crest I wells in order to conform their terms and conditions to those proposed for the Eagle Crest II well.

The Secretary of the Association is hereby directed to file this written consent and the resolution adopted hereby with the Minutes of the proceedings of the Board of Directors, and to deliver a copy of this written consent to the Oregon Water Resources Department.

Dated: May 14, 1994

Tom Thurnell
Member of the Board

Jewel E. A. Hughes
Member of the Board

J. D. Dwyer
Member of the Board

Sally B. Brown
Member of the Board

William D. Lyden
Member of the Board

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

**PLEASE DELIVER THE FOLLOWING MATERIAL
AS SOON AS POSSIBLE**

Transmission Date: 4/26/94

TO: De Reed Marbent

FAX No.: 1-503-378-8130

FROM: KARL G. ANUTA

FAX No.: (503) 228-6551

NUMBER OF PAGES, INCLUDING THIS PAGE: 3

MESSAGE:

If there are any problems receiving this transmission, please telephone us immediately at (503) 228-6469.

- ☐ The original is being mailed.
- ☐ The original is not being mailed.
- ☐ The original is available upon request.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS. THANK YOU.

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. AMUTA*

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

April 26, 1994

VIA FAX & REGULAR MAIL

Steve Sanders
Assistant Attorney General
Counsel to the
Oregon Water Resources Commission
100 Justice Building
Salem, OR 97310

RE: Eagle Crest/Eagle Ridge Water Use Permit

Dear Mr. Sanders:

As you know, I represent ARLU-DeCo and FCB in the Eagle Crest water permit proceedings. As I indicated, my clients are very concerned about certain representations made to the Deschutes County Commissioners about the water use permit decision of the Water Resources Commission (WRC).

Thank you for verifying the Commission's legal position on this matter. As I understand the WRC position:

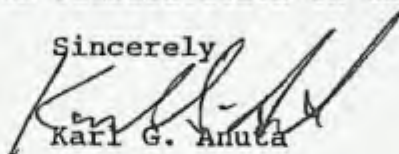
1. Eagle Crest does not currently have a water use permit for Phase II domestic use;
2. The Commission decided on 4/20/94 that certain special conditions needed to be placed on all Eagle Crest water use permits, both Phase I and II;
3. The WRC decision on 4/20/94 was that if Eagle Crest submits written authorization from the Phase I Homeowners Association, agreeing that all Phase I water use permits will be reopened and conditioned the same as Phase II permits, then the agency will issue Eagle Crest a Phase II domestic use permit. Until such a written verification is received, Eagle Crest does not have a water use permit for the expansion;
4. If no written permission is received, the Eagle Crest issue will be back before the Commission for a decision on whether to issue, deny or send to contested case this application; and

Steve Sanders
Page 2
April 26, 1994

5. The Commission did not make a finding that Eagle Crest's Phase II domestic water use permit would have "no impact" on the Deschutes River. The Commission only decided that the Phase II domestic use permit would not create "substantial" short term interference (as defined by Division 9 of the agency rules) between ground and surface water. Under Division 9, only interference that occurs within 25 days of pumping is considered. Long term cumulative impacts are not considered under Division 9.

Thank you again for your clarification on these issues.

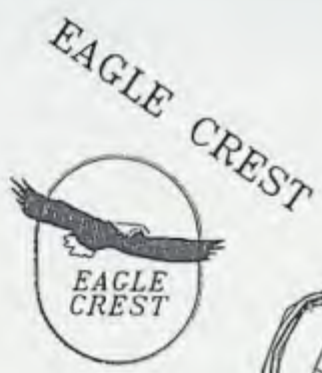
Sincerely



Karl G. Anuta

KGA

cc: Clients, via FAX & mail
R. Marbut, WRD, via FAX
R. Whitman, Eagle Crest, via mail
Dale. Van Valkenburg, Deschutes County Planning, via FAX
Deschutes County Commissioners,
for entry in Land Use appeal record, via FAX
S. Burchfield, ODFW, via FAX
K. Russell, WaterWatch, via FAX



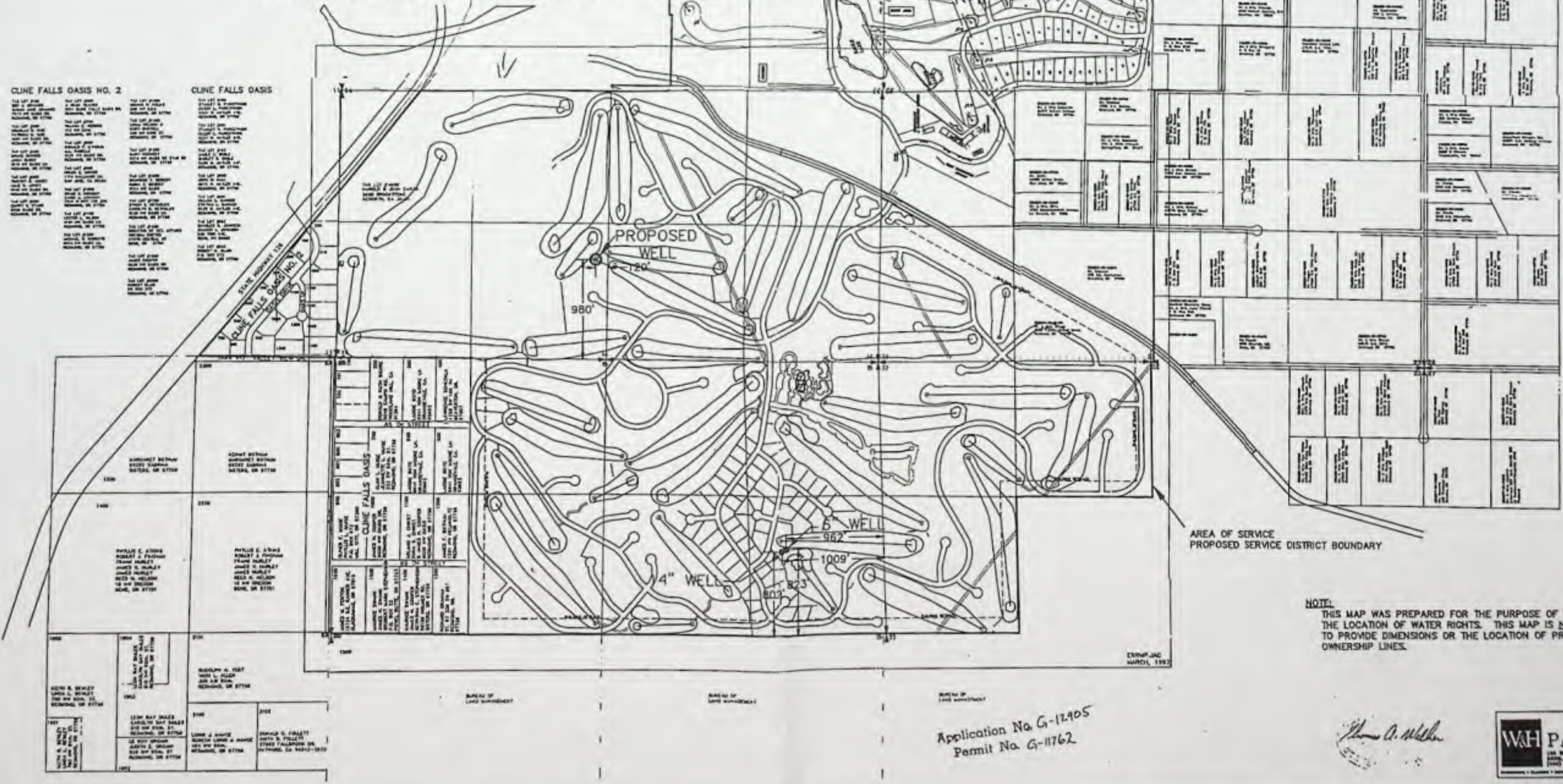
EAGLE CREST II PRELIMINARY MASTER PLAN

CLINE FALLS OASIS NO. 2

1001	1002	1003	1004	1005	1006	1007	1008	1009	1010
1011	1012	1013	1014	1015	1016	1017	1018	1019	1020
1021	1022	1023	1024	1025	1026	1027	1028	1029	1030
1031	1032	1033	1034	1035	1036	1037	1038	1039	1040
1041	1042	1043	1044	1045	1046	1047	1048	1049	1050
1051	1052	1053	1054	1055	1056	1057	1058	1059	1060
1061	1062	1063	1064	1065	1066	1067	1068	1069	1070
1071	1072	1073	1074	1075	1076	1077	1078	1079	1080
1081	1082	1083	1084	1085	1086	1087	1088	1089	1090
1091	1092	1093	1094	1095	1096	1097	1098	1099	1100

CLINE FALLS OASIS

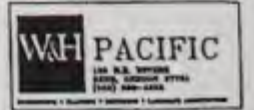
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1111	1112	1113	1114	1115	1116	1117	1118	1119	1120
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1131	1132	1133	1134	1135	1136	1137	1138	1139	1140
1141	1142	1143	1144	1145	1146	1147	1148	1149	1150
1151	1152	1153	1154	1155	1156	1157	1158	1159	1160
1161	1162	1163	1164	1165	1166	1167	1168	1169	1170
1171	1172	1173	1174	1175	1176	1177	1178	1179	1180
1181	1182	1183	1184	1185	1186	1187	1188	1189	1190
1191	1192	1193	1194	1195	1196	1197	1198	1199	1200



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

Application No G-12405
Permit No G-11762

John A. Miller

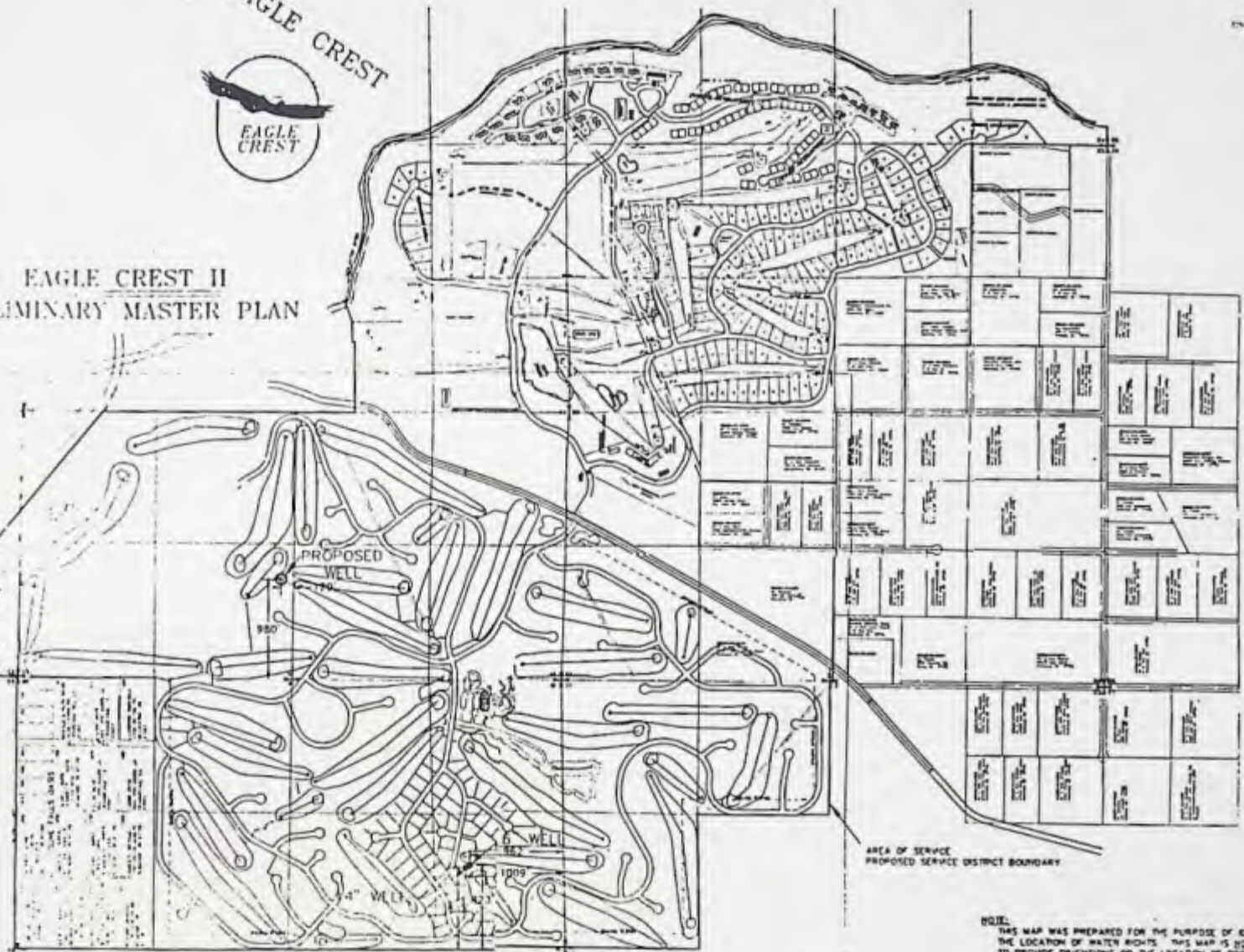


ERECTL.BPW

EAGLE CREST



EAGLE CREST II
PRELIMINARY MASTER PLAN



AREA OF SERVICE
PROPOSED SERVICE DISTRICT BOUNDARY

THIS MAP WAS PREPARED FOR THE PURPOSE OF ILLUSTRATING THE LOCATION OF WATER RIGHTS. THIS MAP IS NOT TO PROVIDE DIMENSIONS OR THE LOCATION OF PRIVATE OWNERSHIP LINES.

The 6th



Application No.

B-12905

State of Oregon

WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Ground Water

Applicant(s) Eagle Ridge Development Corporation

(Please print or type - use dark ink)

Mailing Address: P.O. Box 1215Redmond, Oregon 97756(503)923-0807

City

State

Zip

Daytime Phone No.

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

1. **THE DEVELOPMENT** (number of wells, tile lines, infiltration galleries, etc.): The development is expected to include the expansion of use for two existing wells and one proposed well.

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

Distance from development to stream: 2,000 feet minimum

Elevation difference between streambed and development: + 300 feet

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

Diameter of well: Existing Well #2 and Proposed Well #3: 17"
Existing Well #1: 8" Depth in feet: 800 feet

Type and size of well casing: 14" casing/6" casing No. of feet: 800 feet

Estimated depth to water: 520 feet

Type of access port or measuring device: Air tube and standard casing vent.

Wells to be drilled by: Staco Well Services, Inc.

Address: 220 Academy Street Mt. Angel, Oregon 97362

If the water well is flowing artesian, describe your water control and conservation works: Based upon completion of wells on this property and review of well logs in the vicinity, artesian flow is not expected.

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 4.01 cubic feet per second, OR 1,800 gallons per minute. If water is to be used from more than one ground water source, give the quantity of water from each: Existing well number one: .45 cfs, Existing well number two: 1.78 cfs, and proposed well number three: 1.78 cfs.

3. **INTENDED USE(s) OF WATER:** Quasi-Municipal

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

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

If for **MUNICIPAL OR QUASI-MUNICIPAL** use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.) The proposed domestic water supply system will serve an estimated 900 dwelling units in the proposed expansion of the Eagle Crest Resort and 42 dwellings in the existing Cline Falls Oasis subdivision, provide a reliable backup supply for the + 420 dwelling units at the existing Eagle Crest Resort, and serve recreation, commercial landscape irrigation, fire protection, and construction uses.

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

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

Irrigation _____

Other (describe) _____

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

The system is ultimately expected to include two 250 HP line shaft turbine well pumps, one 50 HP submersible well pump, a + 300,000 gallon storage reservoir, approximately 50,000 lineal feet of 6", 8", 10", and 12" distribution main, and the associated valves, hydrants, and appurtenances.

5. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin April, 1992

Proposed date construction work will be completed October, 1997

Proposed date water use will be completed October, 2002

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

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant X CWRE Other (Identify in REMARKS section)

- b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant X CWRE Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? NO. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

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

REMARKS: _____

Please reference the attached application map for a listing of all land owners and their mailing address.

NOTE: The permit, when issued, is for the beneficial use of water without waste. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

William D. Lyche
Signature of Applicant

Signature of Applicant

April 28, 1992
Date

Date _____

Signature of Co-Applicant, if any

Date _____

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

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

_____, 19____.

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

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 4th day of May, 1992, at 2:00 o'clock, PM.

APPLICATION NO: _____

TO: Water Rights Section

12-3, 1992

FROM: Groundwater/Hydrology Section K. Gorman
Reviewer's N

ATTACHMENT 4

SUBJECT: Application G- 12905

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) 4G;
 - 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 4G is suggested so that the characteristics of the resource can be monitored. The proposed well in SW 1/4 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
- ☒ review of the well log;
 - ☐ field inspection by _____;
 - ☐ report of CWRE _____;
 - ☐ other: (specify) _____
6. THE WELL construction deficiency:
- ☐ constitutes a health threat under Division 200 rules;
 - ☐ commingles water from more than one groundwater reservoir;
 - ☐ permits the loss of artesian head;
 - ☐ permits the de-watering of one or more groundwater reservoirs; K.G. 4-8-93
 - ☒ other: (specify) ~~the bentonite seal was placed to 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
- ☐ was, or
 - ☐ was not
 - ☐ I don't know if it met standards at the time of construction.
- constructed according to the standards in effect at the time of original construction or most recent modification.

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.

(Signature) _____

2/17, 1992.

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

(Signature) _____

_____, 1992.

(WRFORM3\92)

WATER
RESOURCES
DEPARTMENT

April 19, 1993

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

REFERENCE FILE: G-12905

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

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

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

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

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

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

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

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

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

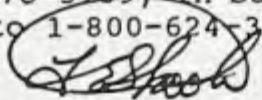
All evidence and objections must be received by our Salem office no later than 5:00 p.m. on or before JUNE 30, 1993, or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

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

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

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

Sincerely,



THOMAS E. SHOOK

Enclosures

CC: WATERWATCH OF OREGON
WATERMASTER, DISTRICT 5
W&H PACIFIC
BALL, JANIK, AND NOVAK
REPRESENTATIVE CLARNO

Report Date: APRIL 19, 1993

OREGON WATER RESOURCES DEPARTMENT

REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD

N.E., SALEM, OREGON, 97310, ON OR BEFORE 5 P.M., JUNE 30, 1993.

1. APPLICATION FILE NUMBER - G-12905

2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756
DESCHUTES Co. 503-923-0807

Date application received for filing and/or tentative date of priority: 5/ 4/1992

SOURCE: THREE WELLS WITHIN THE DESCHUTES RIVER BASIN

Purpose and/or use: GROUP DOMESTIC FOR 900 FAMILIES INCLUDING THE IRRIGATION OF LAWN AND NONCOMMERCIAL GARDEN OF NOT TO EXCEED 1/2 ACRE PER UNIT

Flow: 4.01 CUBIC FOOT PER SECOND (CFS)

Point of Appropriation Location:

T 15 S, R 12 E, SEC. 14, SW 1/4 SW 1/4, SEC. 15, SW 1/4 SE 1/4

Place of use:

E 1/2 SW 1/4
SE 1/4
SECTION 10
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
SE 1/4 SE 1/4
SECTION 22 ?
ALL -
SECTION 23
W 1/2 W 1/2
SECTION 24
NW 1/4 NE 1/4
N 1/2 NW 1/4
SECTION 26
NE 1/4 NE 1/4
SECTION 27

T 15 S, R 12 E, W.M.

GROUNDWATER AVAILABILITY

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

Pursuant to OAR 690-09-040, the proposed groundwater withdrawal will not have the potential to cause substantial interference with surface water.

In addition, the Groundwater/Hydrology Section has reported the water is likely to be available to supply the proposed use.

CONFLICTS WITH OTHER WATER RIGHTS:

There are existing rights from this point of appropriation. See permit conditions.

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

REPORT CONCLUSIONS:

Water in the amount of 3 CFS is likely available for 12 months of the 12 months normal period of use. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

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

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

PROPOSED PERMIT CONDITIONS

Application: G-12905

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

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: YEAR ROUND
3. Rate of use: 3 CFS
4. A regulating device shall be installed pursuant to ORS 540-310.
5. A measuring device, installation and reporting are required pursuant to ORS 540-435.
6. The PERMIT HOLDER shall obtain a static water-level measurement for each well during MARCH of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the PERMIT HOLDER shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the PERMIT HOLDER'S or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The PERMIT HOLDER shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit.

7. Water use development requirements:
 - A) Begin construction by (one year from issuance of permit).
 - B) Complete construction by October 1, 1995.
 - C) Completely apply the water to beneficial use by October 1, 1996.
8. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
9. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
10. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
11. The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times. When required by the department, the permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn. The use of water shall be limited when it interferes with any prior surface or ground water rights.
12. Pre-application discussions between Deschutes County officials and the applicant suggest that land use approval will be obtained. No water may be appropriated under the terms of this permit until the a proper land use statement has been filed with the Water Resources Department.
13. Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

For existing rights on point of appropriation:

14. In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

For existing rights on place of use:

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

C.T. Thomas
3201 SW 73rd Street
Redmond, Oregon 97756-9232

WATER RESOURCES DEPARTMENT
STATE OF OREGON
REFERENCE FILE G-12905

REC-102

JUN 21 1993

Eagle Ridge Development Corp.

WATER RESOURCES DEPT.
SALEM, OREGON

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

Clifford T. Thomas

3201 SW 73rd

REDMOND

FAX TRANSMISSION

DATE: 6-29-93 TIME: _____

PAGES: _____

2

TO: Water Resources Dept

FROM: Marion Miland PHONE: _____

LOCATION: _____

LOCATION: MARATHON BUSINESS MACHINES, INC.

FAX#: _____

FAX#: (503) 548-5967

MESSAGE: _____

PHONE#: (503) 548-5248

FAX 503-378-P130

6-28-93

P.1

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

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

Dear Sir,

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

TAX LOT 200 BEN JOHANEK

201 JACK BAKER

202 PAT MCCREARY

300 BEING SOLD TO NEW OWNER

201 AND 202

202 TAT McCREARY

300 BEING SOLD TO NEW OWNER

301 DAN DETERS

302 HARRY BRIDGES

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

P2

Eagle Creek is up to now.

Section 23 is ~~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 Willard
3201 S.W. 73rd St
Redmond, Or. 97756

RECEIVED

JUL - 6 1993

WATER RESOURCES DEPT.
SALEM, OREGON

By FAX 378-8130 and Regular Mail

June 30, 1993

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

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

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

♦ The Technical Report is Defective.

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

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

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

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

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

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

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

The 1984 Deschutes Basin Plan states:

• **General Findings:**

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

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

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

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

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

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

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

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

There is inadequate streamflow for fishery requirements. Finding 20.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. This application was processed out of order.

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

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

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

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

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

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

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

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

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

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

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

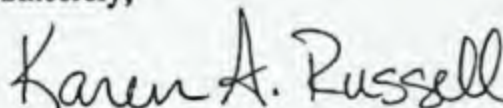
7. **Proposed condition #14 does not protect the public interest because it allows the transfer of amounts above actual permit requirements.**

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

♦ Conclusion

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

Sincerely,

A handwritten signature in cursive script that reads "Karen A. Russell". The signature is written in dark ink and is positioned above the printed name and title.

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 bordering Eagle Crest, we are understandably concerned about the effects the Eagle Crest proposed water request will have on the groundwater source, as well as on surface water quantity and quality.

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

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

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

Deschutes County received, and rightly so, drought status. We request protection of our ground water and surface waters in accordance with 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 1/5/92

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

Testimony presented re: HD-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 (J)
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 Pajutee

Dorothy Schoonmaker
Sandra Sands
Jen Twining, Exec. Dir.

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

The Alliance for Responsible Land Use in Deschutes County

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

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

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

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

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

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

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

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

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

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

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

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

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

I. The Technical Report fails to respond to the requirement

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

J. COMMENT ON PROPOSED PERMIT CONDITIONS:

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

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

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

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

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

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

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

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

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

THE PROPOSED USE IS NOT IN THE PUBLIC INTEREST

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

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

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

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

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

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

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

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

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

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

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

*WATER QUANTITY - See EXHIBITS H AND I

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

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

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

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

G. THE PROPOSED USE IS NOT COMPATIBLE WITH THE OTHER NATURAL RESOURCES WHICH ARE PRESENT IN THE DESCHUTES BASIN [OAR 690-11-195(4)(G)(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

Oregon

WATER

RESOURCES

DEPARTMENT

January 13, 1994

Clifford T. Thomas
3201 S.W. 73rd
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

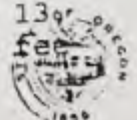
The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **all of your Objections to this proposed water use are hereby denied.**

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13th 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.



3850 Portland Rd N1
Salem, OR 97310
(503) 378-3730
FAX (503) 378-8130

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.



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

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

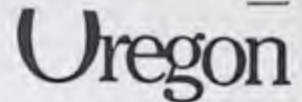
If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections



January 13, 1994

Karen Russell, Assistant Director
WaterWatch of Oregon
921 Southwest Morrison, Suite 438
Portland, OR 97205

WATER
RESOURCES
DEPARTMENT

Re: Denial of Objections
to Application File Number G 12905

Dear Ms. Russell:

The Director of the Water Resources Department has reviewed your Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G 12905 submitted by Eagle Ridge Development Corp.. As the result of the Director's assessment, all of the Objections submitted by WaterWatch of Oregon to this proposed use are hereby denied.

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

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

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

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

The Technical Review conducted on application G 12905 did include consideration of the elements specified in OAR 690-11-160(1) as is documented by the information contained in the records of the Department including the Application File.



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

You have asserted 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. there has been no determination that the proposed water use will in fact reduce the flows or have any impact on the water quality of the Deschutes River. The Department has determined that groundwater for the proposed use can, if properly conditioned, avoid injury to existing rights or to the groundwater resource.

As indicated in the Technical review Report on G 12905, a permit issued on G 12905 would require an annual static water level measurement and prescribe water-level declines parameters. (See Proposed Permit Condition #6.)

Your Objections include an allegation regarding the lack of sufficient measuring and reporting in the Report's Proposed Permit Conditions. Consistent with established policy, the Department requires some form of measuring and reporting condition on all permits issued. If a permit is issued on this Application it will include a sufficient measuring and reporting condition.

You have asserted the proposed use will interfere with the surface waters of the basin. You have not set forth facts which establish that the proposed use will interfere with the surface waters of the basin. The Groundwater/Hydrology section indicates that, the proposed groundwater use will not have the potential for substantial interference with the nearest surface water.

You have asserted the use as proposed violates statewide policies. You have not set forth facts which establish that the proposed use violates statewide policies. The proposed use is not inconsistent with the Groundwater Management Policy as established by the Water Resources Commission. The Departemnt recognizes its obligation to protect the waters of the state from over-appropriation and the need to manage the groundwater and surface water conjectivity where to do so will protect the water resources, existing rights and the public interest. You have not set forth facts which establish that this approval of the proposed use would allocate water beyond the capacity of the resource in violation of the Water Allocation Policy.

WaterWatch
January 13, 1994
Page 3

Your objections include the statement that the application was processed out of order. As of this spring, this application will have been pending for two years. The application clearly falls within that category of applications which the legislature instructed the Water Resources Department to process in as timely a manner as possible. Other applicants will not be disadvantaged by the processing of this groundwater application, as the Groundwater/Hydrology Section has determined that there is no potential for substantial interference with surface waters.

WaterWatch has alleged the proposed use as proposed is not compatible with local land use plans and is contrary to the Department's rules. No recommendation to issue a permit will be made unless a determination has been made that the proposed use will not impair or be detrimental to the public interest. Such a finding could not be made unless land use approval has been secured.

On January 13, 1994, 1994 a final order granting land use approval to Eagle Ridge Development Corp. was issued by the Deschutes County Hearings Officer. (Copy of the Deschutes County order is included in the application file.)

The objection you submitted also include an allegation that the Report's Proposed Permit Condition #14 would allow a transfer of more water than allowed under a permit. Oregon water law prohibits expansion of a water right. The language of Condition #14 would allow less water to be transferred than originally permitted by limiting the a future transfer to the capacity of the facility at the time of perfection. The amount certified could be less than but could not exceed the original terms of the permit.

Your objections do not meet the requirements of OAR 690-11-170 (1). The Director has determined that you have not established that the Technical Review is defective and you have not identified elements of the proposed water use that may impair or be detrimental to the public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited. You may protest this denial of your Objections. You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in the Oregon Administrative Rules, Chapter 690, Division Two, Sections 030 through 080. (OAR 690-02-030 through 080).

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

WaterWatch
January 13, 1994
Page 4

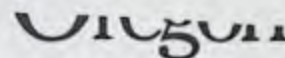
If you have any questions, please call.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
Marion Millard;
Clifford T. Thomas;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Enc: Other Objections



January 13, 1994

WATER
RESOURCES
DEPARTMENT

Sandra Sands
Friends of Cline Butte
3450 S.W. 81st
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Sands and Signatories of Canyon River
Territory residents petition of 3/14/1991:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, your Objection to this proposed water use is hereby denied.

The objections you have raised are environmental issues for which the Department of Environmental Quality (DEQ) is responsible and for which the Water Resources Department has no regulatory authority. The Water Resources Department works with DEQ on ongoing basis to ensure environmental regulations are met and conditions permits to comply with DEQ regulations when applicable.

You have objected on the basis that a ground water resource study has not been done. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

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

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

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

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

The Technical Review conducted on application #G 12905 did include consideration of the elements specified in OAR 690-11-160 (1) as is documented by the information contained in the records of the Department including the Application File.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Clifford T.Thomas;
Canyon River Residents;
James L. Goodell;
Rep. Beverly Clarno;
Robert C.Riggs, Mayor of Redmond;
W&H Pacific

Encl: other Objections

B

G-12905

Folder

~~2~~

2 of 3

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756

FILE#: G 12905

Application No.

G-12905

Permit No.

G-11762

Certificate No.

85471

Stream Index, Page No.

Date filed

Priority

Action suspended until

Return to applicant

Date of approval

CONSTRUCTION

Date for beginning

5/31/95

Date for completion

10/1/97

Extended to

Date for application of water

10/1/98

Extended to

PROSECUTION OF WORK

Form "A" filed

Form "B" filed

Form "C" filed

FINAL PROOF

Blank mailed

Proof received

Date Certificate issued

May 8, 2003

#2

See only-
abundance file

FEE PAID

Date

Amount

Receipt No.

Cert. Fee

FEE REFUNDED

Date

Amount

Check No.

ASSIGNMENTS

Date

To Whom

Address

Volume

Page

REMARKS



February 9, 1993

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

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

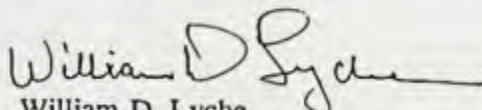
Dear Steve:

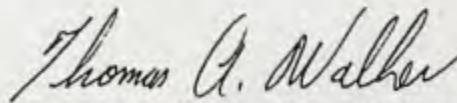
Thank you for your significant assistance with our pending groundwater appropriation application for the proposed expansion of the Eagle Crest Resort. Our original water right appropriation application was submitted April 28, 1992 and has been under review by your department since that time. At this time it is appropriate to change our application.

You are hereby authorized and asked to change item number three on our application, the intended use of water, from quasi-municipal to domestic for approximately 900 dwelling units, including irrigation of lawns and gardens, not to exceed one-half acre per unit.

This change is intended to expedite the processing and approval of our pending application. Your assistance will be greatly appreciated.

Sincerely yours,


William D. Lyche
Eagle Ridge Development Corporation


Thomas A. Walker, P.E., C.W.R.E.
W&H Pacific, Inc.

Eagle Crest
P.O. Box 1215
Redmond, OR 97756
(503) 923-0807
05260101\owrd-rm.ltr

EXHIBIT "F"

G-12905
ARLU-DeCo.
6-29-93

RECEIVED

JUN 27 1993

WATER RESOURCES DEPT
SALEM, OREGON

December 13, 1991

To: LCDC

From: Sandra Sands, Alliance for Responsible Land Use in Deschutes Co.

Re: Destination Resorts

I live in Redmond, near the present Eagle Crest Resort, in the rural Canyon River Territory. I breed and train Quarter horses, and raise cashmere goats for fleece production. I moved to Central Oregon five years ago, attracted by its rural quality of life, open spaces and availability of affordable horse property.

Out of growing concern over the acquisition of public BLM land for private enterprise, the visible depletion of wildlife habitat, and the concern for water availability and quality, I spearheaded a community group, known as Friends of Cline Butte. Our concerns have become county-wide, as many of us have joined forces with the Alliance for Responsible Land Use in Deschutes County.

To protect Oregon's future, the state's land use laws, wisely, protected agricultural and forest lands from development. The laws clearly and thoughtfully outline where destination resorts can and cannot be sited. We do NOT want more destination resorts in our county.

- The Four existing resorts now occupy prime resource lands.
- One resort can devastate rural quality of life, by creating small cities in rural areas, depleting draught affected aquifer supplies, pumping exorbitant amounts of water at depths several hundred feet below neighboring wells, impacting rural roads, impacting ground water quality, and by closing off open space and scenic lands for private enterprise.

Several counties, including Deschutes County, have elected to diversify from tourism as their regional strategy, choosing to return to agriculture, or venture into high technology. Tourism does not generate a family income market.

Implementation of Goal 8 and Title 18 amendments at this time was initiated by Eagle Crest to expediate the process because of financial pressures. RESOURCE LAND USE ACTIONS SHOULD NOT BE PREDICATED UPON TIME, NOR UPON A DEVELOPER'S FINANCIAL PRESSURES, NOR UPON SPECULATIVE LAND PURCHASING. Goal 8 is optional. Deschutes County has dedicated six months in an attempt to prematurely implement Goal 8, while important issues remain unresolved and open-ended, dependent upon the long over-due periodic review outcome on forest and farmlands.

The question of NEED for more destination resorts in Deschutes County has not been adequately addressed with the public.

The county has minimized citizen awareness and involvement by over-riding concerns of citizens - as evidenced by nearly 200 written citizen letters in opposition in the destination resort file, as the county rushes to prematurely implement Goal to meet a resort's deadlines.

The cumulative effects of current, as well as future destination resorts has not been addressed with the public.

Economic impact, negative, as well as positive, has not been fully studied, nor addressed with the public.

The questionable status of the county's four existing resorts has not been addressed. The Inn of the 7th Mt. is in bankruptcy - the county's resulting financial loss is great. Eagle Crest homeowners are in conflict with management, septic and water problems have not been resolved, and homes within the resort have been on the market for a year. Black Butte Ranch is plagued with conflicting water use issues. Sun River's attempt to incorporate as a city is costly to the county, proponents admitting a "new city" would help bring dollars back home to "help defray the cost of tourism's impact".

Destination resorts create an unreliable job market, for minimum wage earners, resulting in cost of living problems, seasonal jobs, and unemployment. Deschutes County's housing cost is now 18% higher than the national norm. Affordable housing, in an unsteady economy, is a serious problem.

A need for implementing additional agricultural and forest land has not been established, as there exists at present a 23-year supply of land eligible for development.

In the best interests of all its people, the county should compile objective, accurate water availability information. The county should undertake a comprehensive study of both the fiscal and physical health of its existing four resorts, and should study not only the positive economic impacts, but also the cumulative negative impacts of destination resorts on adjacent communities, and upon the county in general.

Governor McCall's love of Oregon and concern for its future was clear:

- focus economic growth efficiently around urban areas
- conserve important natural resources
- give citizens a clear voice in the planning process

We need your help in ensuring our land use laws and plans are honored in letter, and in spirit in Deschutes County.

Thank you for your consideration.

Sandra Sands

January 8, 1992

To: Deschutes County Board of Commissioners

From: Sandra Sands - 3450 SW 81st Street
Redmond, Oregon 97756

Re: File #PA-91-4 and File #TA-91-4

I represent Friends of Cline Butte, and I am an advocate for responsible land use in Deschutes County.

The question of NEED for more destination resorts in the county has not been addressed, nor has a NEED for adding agriculture and forest lands been established, as there exists at present a 23-year supply of land currently eligible for development.

Of the options available to the County, at this time, we believe it would be in the best interests of Deschutes County residents to determine that destination resorts are not appropriate in additional resource lands within the county. Once farm and forest lands are lost to resort development, it is impossible to reclaim the land when it is needed for food, fibre, and timber to meet the needs of the future.

According to Statewide Planning Goal 5, the County has been charged with the responsibility to conserve open space and protect scenic resource land and natural resources. Quality and quantities of these resources shall be inventoried. Where conflictual uses have been identified, consequences of the conflicting uses shall be determined. Further, the conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate, and type of growth in the planning area.

Cumulative effects of current, as well as future destination resorts has not been addressed with the public. The County should undertake a comprehensive study of both the fiscal and physical health of its existing resorts, and should study not only the positive economic impacts but also the cumulative NEGATIVE impacts of destination resorts on adjacent communities, and upon the county in general. Does the average citizen wind up paying for tourism - including higher federal, state, county and city taxes for highway expansion, highway repair, more schools and parks, increased police and fire protection, expansion of public utilities, unemployment wages for seasonal employees, escalated tourist prices to shop locally in a county actively promoting tourism?

Water Resources has stated that current ground water availability studies of this area have not been conducted nor inventoried. In 1989, Water Resources was granted the authority to investigate ground water at a county's request. Deschutes County has not applied. Ground water instability should be studied - drops in water level -vs- future development prospects. At Eagle Crest's request, Mr. Newton prepared what appears to be a superficial report. His report does not constitute a conclusive ground water study. *for the*

Statewide Planning Goals identify drought as a natural hazzard. Governor Roberts has declared Deschutes County a drought disaster area. At Deschutes County's request, a low 4% FHA loan for farmers if a 30% or more loss of agriculture production is due to drought has been initiated. Also, Water Resources has announced plans for a 30% cut in irrigation water use, due to drought impacts.

It would seem that now is the time for the County to consider implementation of procedures for a drought management plan pertaining to present and future large developments and high level water users. A conclusive study by Water Resources of ground water availability should be given high priority, precluding additional large development projects.

Destination Resorts and golf courses are high level ground water users. An average golf course requires 1.5 million gallons of water daily. Destination resorts usually consist of two to three golf courses, with lakes and waterways, 200 to 300 units of overnight lodging, which at the proposed 2 to 1 ratio, allows for up to 600 residential fairway homesites, with irrigated lawns. Destination resorts require millions of gallons of water daily, pumped from depths several hundred feet below neighboring domestic wells, from a drought-depleted aquifer.

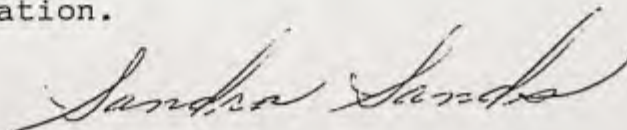
Deschutes County has dedicated six months in an attempt to prematurely implement Goal 8, while important issues remain unresolved, dependent upon the long over-due periodic review outcome on forest and farm lands. The primary purpose of Goal 8 is to satisfy the recreational needs of the citizens of the state, and visitors, and where appropriate, to provide for the siting of NECESSARY recreational facilities, including destination resorts. I've searched the destination resort file without finding documentation determining additional RECREATIONAL NEED in Deschutes County. Nor does Goal 8 take into consideration a county's record of resource and rural lands abuses.

Citizen testimony and the flood of recent "letters to the editor" are very good indicators of public opinion regarding the addition of destination resorts in forest and farm lands in the county. It was very disconcerting to read in a recent newspaper article a Commissioner's statement, (pertaining to the proposed land-use amendments being discussed here tonight), "To hold off on changes pending periodic review would kill Eagle Crest's financing." (Exhibit A). Resource land use actions should not be based upon time, nor upon a developer's financial pressures, nor upon speculative land purchasing. It is my understanding that the Board of Commissioners is comprised of elected officials, who serve as the public's elected advocates.

It is important that our lifestyles be preserved, and the resources of the county, both natural and financial, be used effectively. County policy could be "that destination resorts should be limited to those which would not have adverse effects on the tax burden, cost of living, surface and ground water supplies, nor upon wildlife.

We look to you, our Commissioners, to ensure that our tax dollars are used prudently and that destination resorts and their sitings do not become a burden on the county's residents. We need your help in ensuring Deschutes County's future by focusing economic growth efficiently around urban areas, by conserving important natural resources, and by giving citizens a clear voice in the planning process.

Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "Sandra Sandoz", is written in dark ink.

To: THE BULLETIN
"my nickel's worth"

From: Sandra Sands, Redmond

Date: January 8, 1992

FILE # PA-91-4
TA-91-4

JAN 20 1992

I would like to comment on Mr. Chandler's 1/7/92 editorial on "Ski Runs and Green Fairways".

Informing the public about the impacts from drought is truly important, especially considering Deschutes County is entering into its sixth year of below average rain and snowfall.

Perhaps the public also needs to know that the aquifers in our area receive only HALF of the total surface run-off from snowmelt and precipitation. It is not possible to accurately assess the amount of water currently being withdrawn from the aquifer. Well logs do not show how much water is actually being withdrawn, they show only a measurement of gallons per minute available. Further, aquifer boundaries have not been definitively identified in the Deschutes River Basin.

Water Resources in Salem admit the most current information compiled on this region's aquifer capabilities and renewal were compiled in the late 1950's and early 1960's. Demand on Deschutes County ground water has escalated with population growth, development, and heavy ground water user demands, such as golf courses. Published golf course statistics in the Bulletin stated "one average golf course requires 1.5 million gallons of water daily".

Water Resources recommends ground water instability should be studied - declines in water level -vs- future development prospects. A conclusive study of this region's ground water should be given high priority, before our ground water resource is over developed. Test wells at the Bonneville Power Administration, the observation well reflecting the Terrebonne/Redmond/Smith Rock area show a trend of ground water decline of about twelve feet over the last six years. The water level at Pine Meadows shows a similar trend.

Extended drought is a threat to the economic health of this region. The public should be presented with accurate information to avoid misunderstanding about what drought is and what it means to the region.

THE BULLETIN Editorial

An Independent Newspaper

Dan Clark, Photo Chief	Robert W. Chandler, Editor	Steve Bagwell, Managing Editor
Jeff Nielson, City Editor		Bill Bigelow, Sports Editor
	Janet Stevens, Deputy Editor	
	Greg Cushman, Publisher	
Mike Greening, Operations Manager		John Shaver, Controller
Corey Bock, Circulation Manager		Mike Thorpe, Director of Marketing

Ski runs and green fairways

One sign that Central Oregon has changed dramatically is the widespread misunderstanding about what a drought is and what it means to the region.

Many of today's Central Oregonians never have heard of Wickiup or Prineville reservoirs, let alone have any understanding of the importance of the water stored there.

A large share of our readers — in Deschutes County, at least — have little knowledge of why the snowpack and stream forecast figures we report each month are of vital interest to farmers and ranchers.

We suspect that too many people think of drought in terms of domestic water use — dry wells or brown lawns. That's not the issue in Central Oregon.

There is plenty of domestic water in the huge aquifers that course deep below the High Desert. Plenty enough for the growing population, it seems, at least in most areas.

What there isn't enough of is

surface water, the water that streams off the high Cascades and the Ochocos and fills reservoirs on the Deschutes and Crooked rivers. This is the water that nourishes the region's agriculture industry — which still is a crucial part of the Central Oregon economy.

Too often, today's Central Oregonians seem blase about drought, especially if there is enough snow to ski on or enough water to keep golf fairways green.

But the extended drought — we are into our fifth year of below average rain and snowfall — is a threat to the economic health of this region.

It could bring a forest fire to your door. It already is causing serious economic damage to growers and ranchers in several parts of Central Oregon. It is killing fish and hurting wildlife.

If you don't believe the drought is important, then you truly don't understand the place you live.

My name is Sandra Sands. I am opposed to HB-2932 because I live next to a destination resort and we are living the worse-case scenario - one that will repeat itself elsewhere without protections built into the destination resort bill.

May 3, 1993

To: Representative Bob Repine and Representative Ray Baum

Re: HB-2932 - Destination Resorts

I would like to talk with you today about a worse case scenario: A destination resort comes to town, sets up as a conditional use on EFU lands - with a couple golf courses, time shares and condos, then applies for permanent residences because golf courses are going belly-up nationwide without fairway housing. The resort, of course, must be located near a scenic river, surrounded by attractive wooded lands so resort patrons can experience fowl, birds of prey and deer in their natural habitat.

Because the resort is located in a rural area, there are no public services. The resort depends on a septic system and ground water for the resort and 1.5 million gallons per day of ground water to irrigate each 18-hole golf course.

The resort decides they must have a hotel. The hotel is added to the septic system and ground water demands, already overburdened, because more houses within the resort have been developed. Then the resort applies for a convenience store, a mini-shopping mall, a gas station and a post office - fronting the road to attract patrons.

The resort falls upon hard times, home owners in the resort are disillusioned because of failing septic systems, lack of water pressure, unfulfilled promises, and a lagging economy. During fire season, residents worry because fire response time out to their rural resort won't help much when they have only one exit out and the resort is surrounded by dry sage brush and juniper.

The resort has built out into their designated buffer zone and needs a new one; their designated open space has been used to create an amphitheater. The resort must produce more home sales in order to continue financing. The resort wants more land, so acquires 700 more acres of public BLM land in a trade across the highway. That land is zoned EFU, and is certainly cheaper than commercial land, but the resort can't develop that land without changing the rules.

Campaign contribution funds roll into the county commissioner coffers and into community projects to guarantee support. Elected local officials disregard citizen concerns and go to bat for the development. The rules are changed.

At first, the resort promises they only want two more golf courses on their new 700 acres under a conditional use permit. That's another 3-million gallons of ground water daily to provide

WILDWOOD STABLES
Dave & Sandy Sands
3450 SW 81st St
Redmond, OR 97756
(503) 548-8643

lush green turf in the middle of the dessert on land declared worthless for agriculture.

We all know golf courses do not survive without fairway housing. Now that resort wants to develop a 1,218 acre private resort in this peaceful rural area. They want 900 more houses, they want a couple hundred condos and townhouses. They want another hotel and convention center. They want another restaurant, and shops for their patrons. They want to deluge this rural area with golfers, shoppers and tourists. They want to add 900 more dwellings, a minimum of 1,800 permanent residents - a small city out in this rural farming community - on septic system, using ground water.

Of course, rural roads aren't adequate for thousands more people, so the Highway Dept. generously offers to use taxpayer dollars (60%) to fund a 30-foot concrete overpass and highway expansion to the resort, in this pleasant rural area. If the Highway Dept. can't acquire frontage for expansion, they'll just condemn said property.

Meanwhile, property values and property taxes soar due to an influx in the community of two hundred and three hundred ^{thousand} dollar fairway homes. Now, senior citizens on fixed incomes can do community service to help offset their escalated property taxes in order to keep their homes. Residents of the community near this resort must pay escalated tourist prices each time they shop for staples and goods. Utility prices go up to pay for expansion to a new small city in a rural area distanced from the urban growth boundary. Deer, forced from established feeding lands by development and increased traffic, lie dead beside the road or take their chances in a neighbors yard. Birds of prey fall victim to poisoning from rodents ingesting golf course pesticides. Water fowl are shot at to keep them away from pristine golf course ponds. The river below the resort becomes contaminated by fecal coliform because of an inadequate septic system for an ever-expanding resort. Neighboring wells begin to drop, five feet, ten feet - but action by water resources won't be taken until wells drop 25-feet.

The resort encroaches on the neighboring rural residential community - acquiring more land to create another buffer zone, and to acquire existing domestic wells to provide more water to the resort. The existing community becomes surrounded by properties acquired by the resort, now part of the destination resort overlay zone. The resort wants to change the rural zoning and pave the cinder roads in this community. The resort offers bribes so residents of the community will dissolve their protective building and use restriction so the resort can develop property acquired. Destination resorts will always want more!

I live next to a resort, in a county that when polled, showed that 80 % of its respondents felt there were already too many

WILDWOOD STABLES
Dave & Sandy Sands
3450 SW 81st St
Redmond, OR 97756
(503) 548-8643

destination resorts and they favored protecting farm and forest lands unable to support commercial farming for open space, wildlife habitat, and small-scale hobby farms.

Please listen to the people. The bill before you is very ambiguous. It's full of loop holes that allow for real-life worse-case scenarios. Build in absolute restrictions that will protect property owners from encroachment by resorts. Use income from room tax, not to further tourism, but to reduce the burden tourism and fairway housing puts on the local consumer and property tax payer, to offset higher utility costs and repairs to overburdened roads. Polluters of rivers and contaminators and depleters of ground water must be held liable, legally responsible for restitution. Use a percentage of room tax to restore and protect wildlife habitat.

Do not increase rural sprawl - site destination resorts in or near urban growth areas. Keep concrete overpasses and resort cities out of rural lands and closer to services and public transportation. Goal 8 is in direct conflict with all of the other statewide planning goals that are in place to insure Oregon's future by focusing growth efficiently around urban areas, to conserve and protect natural resources, and to guarantee citizens a clear voice in the planning process. Destination resorts and their siting must not become a burden on Oregon's residents.

Thank you for your consideration.

Sandra Sands
Wildwood Stables
3450 SW 81st Street
Redmond, Oregon 97756

- Once farm and forest lands are lost to resort development, it is impossible to reclaim the land when it is needed for food, for fibre, or for timber to meet the needs of the future.

- Cumulative impacts, both positive and negative, of current, as well as future destination resorts must be studied objectively.

- Statewide Planning Goals identify drought as a natural hazard. Rather than sanctifying a water studies done by a hydrologist on a developer's payroll, counties should be mandated to conduct current surface and ground water availability studies, prepared by an objective agency, such as State Water Resources. Drops in water level versus future development prospects must be addressed to guarantee quality and quantity of water for all residents.

- Destination Resorts and heavy ground water users. An average 18-hole golf course utilized 1.5 million gallons of water daily. Major resorts offer two and three golf courses, with lakes and water obstacles. The proposed Goal 8 ratio of two fairway homesites for each unit of overnight lodging allows a destination resort a density of 500 to 600 irrigated homesites.

- Deschutes Co. has been declared a drought disaster area. It would seem that now is the time for the county to consider implementation of drought management procedures pertaining to present and future large scale, heavy water user development.

- The primary purpose of Goal 8 is 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.

 - The purpose of Goal 8 is NOT to establish small cities in rural, resource areas.

 - Perhaps Goal 8 should take into consideration a county's record of resource and rural lands abuses.

It is important that rural quality of life be preserved, and the resources of the county, both natural and financial, be used effectively for the betterment of ALL ITS CITIZENS.

To ensure Deschutes County's future, economic growth must be focused efficiently around urban areas, natural resources must be conserved, and citizens must have a clear voice in the planning process. Destination resorts and their siting must not become a burden on the county's residents.

To: The Senate Committee on Agriculture & Nat. Resources

From: S. Sands, 3450 SW 81st St., Redmond, Or. 97756

STATEWIDE PLANNING GOAL 8 - DESTINATION RESORT SITING

My name is Sandra Sands. I reside in Deschutes County, and am here today as a member of the Alliance for Responsible Land Use in Deschutes Co. and as a member of a concerned rural citizens group known as Friends of Cline Butte.

We are opposed to the siting of destination resorts in agricultural and forest lands. Our primary concerns are as follows:

- Deschutes Co. suffers the effects of a population jumping 170% from 1970 to 1990. The growth rate is more than twice the state average.
- Major destination resorts, such as Eagle Crest and the proposed Smith Rock resort will enormously impact our highways. State Highway Planners estimate a major resort would generate 4,500 cars per day in a localized rural area.
- Growth does not pay for itself. Increased taxes support major highway expansion and repairs, new schools, major public works projects and increased utility services to an increasing population.
- The siting of destination resorts must be restrictive to prevent an over-saturation of resorts in one area. Deschutes Co. presently has better than 50% of the total destination resorts in the northwest---occupying resource land.
- As Goal 8 presently reads, it appears Statewide Planning Goals 3, 4, 11 and 14 have become exceptions when farm and forest lands are targeted for destination resort development.
- The question of NEED for more destination resorts in Deschutes County has not been established, nor has a NEED for adding forest and farm land for resort development been clearly established.
- Politics must not be allowed to over-ride citizen concern. The siting of destination resorts on non-irrigated farm land was prematurely implemented, while important issues remained unresolved, because "To hold off on changes pending periodic review would kill Eagle Crest's financing." Close to 1,000 letters voicing citizen opposition to allowing destination resorts in farm and forest lands were received by the County.
- RESOURCE LAND USE ACTIONS SHOULD NOT BE BASED UPON A DEVELOPER'S FINANCIAL PRESSURES, NOR UPON SPECULATIVE LAND PURCHASING.

EXHIBIT "G"

G-12905
ARLU-DeCo.
6-29-93

(24 pages)

RECEIVED

JUN 30 1993

WATER RESOURCES UNIT
SALEM, OREGON

A PUBLIC OPINION SURVEY ON RURAL LAND ISSUES

for

**DESCHUTES COUNTY BOARD OF COMMISSIONERS
1130 NW HARRIMAN
BEND OREGON 97701**

conducted by

**WESTERN ATTITUDES
17321 SW BOONES FERRY ROAD
LAKE OSWEGO OREGON 97035**

June 1992

INTRODUCTION

The Deschutes County Board of Commissioners places a high value on communicating with its constituents - the citizens and voters of Deschutes County. Opportunities are provided for interested persons to appear before the Commission on all issues. However, those who do take advantage of these opportunities make up such a small percentage of the overall county population that policy makers are left to wonder whether these people represent the viewpoint of the community at large. To learn more about the views, opinions and values of the "silent majority" of citizens on issues relating to rural lands, the Board of Commissioners authorized this Community Attitude Survey. In a survey of this nature, a randomly selected group of citizens is polled on issues that are facing the County. The survey provides a snapshot of community opinion at a moment in time. These opinions can then be taken into account as the Board and County staff develop future policy options.

Deschutes County is completing the first Periodic Review of its comprehensive plan and zoning regulations. This Review is mandated by state law to determine if the County is in compliance with Statewide Land Use Planning Goal 3, that requires counties to preserve and maintain agricultural lands. As part of its Periodic Review, the County has contracted with Oregon State University for a study of agricultural lands in the county. This study will gather technical data from a number of sources and produce a recommended zoning model for the regulation of land uses on agricultural land in the county. The County wishes to supplement the technical data and zoning model recommendation to be produced by the agricultural land study with a two surveys, one, this survey of public opinion, attitudes and values regarding land uses on agricultural and rural land; the second, a survey of county residents engaged in agriculture regarding the nature of their operations (the subject of a separate report). The results of these surveys will be used by Deschutes County Planning Staff, the Planning Commission and the Board of County commissioners as they develop policy for rural land use planning.

This report contains an executive summary, a demographic profile of respondents and a survey overview section which outlines responses to each question. The tables and other data supporting the findings in this summary report are contained in the appendix to the principal report, on file in the office of the Director, Deschutes County Community Development Department. The survey instrument contained a place for people to express their concerns about rural lands to the Board of County Commissioners and these comments will be passed on to the Board for their review and enlightenment.

We acknowledge the assistance of Community Development Director, Karen Green and Community Development staff in identifying rural land issues facing the County, and the Board of Commissioners in reviewing and approving questions and survey design.

METHODOLOGY

In March, 1992, the Deschutes County Community Development Department issued a "Request for Proposal for Public Opinion Survey" to identify public opinion on a number of issues concerning land uses on rural land in the county and to obtain specific information on the nature of agricultural operations in the county. Western Attitudes, a subsidiary of Western Advocates Incorporated, responded to this request and was subsequently awarded a contract to perform two surveys; one, a survey of public opinion, attitudes and values regarding land uses on agricultural and rural land and a second survey of county residents engaged in agriculture regarding the nature of their operations. The second survey will be the subject of a separate report. A copy of the Request for Proposal, together with Western Attitudes response, is included in the appendix to the principal report.

Questions for this public opinion survey were developed by Western Attitudes, in consultation with Deschutes County Community Development Staff and reviewed by the Board of County Commissioners. In all, 36 questions were identified. Respondents were asked to share their attitudes and values on a number of topics - quality of life in the area, uses of farm land in the county, non-farm development in farm use areas, farm use and non-farm use conflicts, destination resorts, fish and wildlife habitats, and also to provide demographic data about themselves. Some questions were "open-ended" to encourage respondents to elaborate on their attitudes and values. Other questions asked respondents to choose or prioritize from a list of options provided. At the end of the survey, respondents were able to list any additional comments about rural lands they would like to pass on to the County Board and staff. About twenty surveys were distributed and field tested by both Western Attitudes and County staff and, as a result, some questions were modified to clarify issues and make questions easier to answer.

The target population was identified as households containing registered voters in Deschutes County. The size of the sample frame, i.e. those to be contacted, was estimated to be about 3,000. With this many contacts, we estimated we would receive in excess of the 400 resident responses needed to provide results with a margin of error of plus or minus 5 percentage points, even if opinions are evenly divided. To ensure that all members of the target population had an equal chance to participate, a computer-generated list of names of Deschutes County registered voters, selected at random and representative of precinct counts in the county, was prepared by Voter Contact Services, a national firm that specializes in creating mailing and calling lists for these purposes. 2,943 surveys were mailed and some 1,062 responses (a 36% response rate) were received by our cut-off date. We know what the people who responded think. What we don't know is how representative they are of the people who chose not to respond i.e. the level of non-response bias that might exist. However, the benefit of receiving not 400, but 1,000 responses is that the maximum variability in the margin of error is only 3% where opinions are evenly divided and smaller than that when there is less diversity of opinion. The "error" in margin of error refers to the expected difference between a sample's results and results one would get if it were possible to survey the entire population.

Based on the extent of the County's policy information needs and what we saw as complicated questions that would be difficult to convey over the phone, Western Attitudes

recommended the use of mail rather than telephone to gather responses. We have used the telephone for community attitude surveys on prior work for the Washington County Board of Commissioners and the cities of West Linn, Lake Oswego, Ashland in Oregon and Post Falls in Idaho. We believe telephone methodology works best where a relatively quick turnaround time is needed, when the information needs are less expansive than in this survey, and when the issues to be surveyed lend themselves to a quick, "gut-level" response. Recognizing that survey research calls intrude into people's lives, often at inopportune times, and usually when the subject is least likely to be thinking about the subject under discussion, we are more sensitive than most in restricting our use of this methodology to those issues that are less complex; that require fewer than 25 questions, and that take little more than eight minutes to complete. We have also conducted community attitude surveys by mail, most recently for the City of Tualatin and the City of Lake Oswego. We find them more appropriate when dealing with detailed or lengthy surveys on more complicated issues. Policy makers seem to appreciate the additional insight mail surveys provide where respondents articulate not only their opinion, but why they believe as they do and what they would like to see done. In our judgement, the nature of the County's information needs, particularly with its emphasis on attitudes and values and the desire to have respondents put lists of items in priority order, warranted the use of a mail survey so that the respondents would have the luxury of time and reflection in sharing their views with the Board of Commissioners. While there is always a greater element of self-selection associated with mail surveys i.e. they are more likely to be returned by people who feel strongly on either side of an issue, or by those who simply have the time to fill them out, we are comfortable that, with over 1,000 responses tabulated, respondents represent the continuum of opinion.

In a "Special Report On Designing, Conducting and Understanding Citizen Surveys - Citizen surveys, How to Do Them, How to Use Them, What They Mean" published by the International City Management Association in 1991, *the authors report that, in their collection of surveys conducted by local governments from around the country, the mailed survey, rather than telephone surveys, was the most popular means of contacting residents.* The authors also note that among citizen surveys conducted in the past several years by local governments, mailed surveys average a 34% response rate, while telephone response rates tend to fall between 70-80% and in-person interviews net around an 85% response. They go on to say that the difference in rates is not considered significant enough to dictate the choice of one method over another.

Survey responses received by Western Attitudes have been tabulated and the data cross-tabbed to indicate how the views of respondents differ according to length of residence in the County; whether they live in, or outside, a city; if they farm or not; the area of the county where they live; their ages, and their perspectives on whether quality of life in the community has changed over the past two years. The appendix to the principal report contains these tables.

In reviewing this report, readers should keep in mind that, as the size of the sample under review diminishes in size, the potential margin for sampling variability error is likely to increase. Sub-group analysis for each question is therefore less reliable than figures for the overall sample.

EXECUTIVE SUMMARY

Survey respondents like living in Deschutes County. Almost 7 out of every 10 respondents rate their overall quality of life as a 7 or higher on a 10 point scale, the median average response being 7.4.

However many respondents also express concern about the long-run viability of their existing quality of life. Two-thirds, a significantly large number, feel that the overall quality of life in Deschutes County has gotten worse over the past two years. This perception is a prevailing and majority opinion across almost all geographic and demographic groups within the county.

Perceptions about growth and growth-generated impacts such as traffic congestion, development and escalation of prices and costs are at the heart of these concerns. People who believe the quality of life in the area is deteriorating generally place a higher value on the scenic and natural beauty of the area, clean air and the rural character of the community.

84% of those who returned a survey are not in the business of farming, even though over two-thirds of the respondents live outside the incorporated cities in the county. Over half, 52%, live on 0-5 acre lots.

43% believe there is either the right amount (30%) or too much (13%) land currently zoned for commercial farm use in the County. 21% indicate there is too little.

By a 14% margin, respondents believe that the county is losing land which is reasonably capable of supporting commercial farms. The most popular reasons given for this occurrence are small lot divisions, speculative values and the lack of profit in farming.

Three-quarters of the respondents would place some restrictions on certain uses in rural areas so that land currently zoned for commercial farm use can be used more productively. There is concern about how the County defines a viable "commercial farm" and greater interest in restricting subdivisions, destination resorts and golf courses than other land use patterns.

If land in an EFU zone can't be used effectively for commercial farming, then hobby farms, designated wildlife habitats and open space areas are considered the most attractive alternative uses. There is a significant level of popular support for the encouragement of hobby farms, particularly on property where full-time commercial farming is not a viable option.

55% believe there is either too much (28%) or about the right amount (27%) of land available for non-farm residential development in rural Deschutes County. 21% believe there is too little land currently available for this purpose.

Among those who believe more rural non-farm residential development is needed, there is a preference to locate that development on land that can't support commercial farms. A majority would also prefer that it be in areas where current lot sizes are under 10 acres and on non-irrigated land.

Three-quarters of the respondents favor restricting such development away from important wildlife habitats. A majority would prohibit it on land suitable for commercial agriculture.

46% of the farmers and 80% of the non-farmers have not experienced any incidence of farm and non-farm use conflicts. People are almost evenly split on the question of whether additional regulations to minimize conflicts are needed.

Creation of jobs and favorable economic development impacts are cited as the principal benefits of destination resort development; strain on water resources and traffic congestion are identified as the major negative impacts.

80% are of the opinion that there are either too many (31%) or about the right amount (49%) of destination resorts in Deschutes County. 14% believe there are too few resorts. Perspectives about reducing the ratio of permanent housing to overnight lodging units (currently allowed at a ratio of 2:1) are mixed. 33% would either leave it the same or make it more liberal. 46% would either do away with it or reduce the ratio to something less.

The greatest support for, and least opposition to, siting additional resort developments in farm use areas is to locate them on non-irrigated land. Location of resorts on other types of lands is likely to focus significant opposition on the project.

A majority, 56%, believe that the County's current regulations do not adequately protect important fish and wildlife habitats.

DEMOGRAPHIC PROFILE OF RESPONDENTS

As the reader reviews this report, it is important to keep in mind the profile of those whose opinions are being presented.

Question 1: How long have you lived in Deschutes County?

Under 5 years	24%
6-10 years	18%
11-20 years	31%
Over 20 years	28%

The median length of time respondents have lived in Deschutes county is about 15 years. People who live on 0-5 acre lots tend to be more recent arrivals, while those who engage in the business of farming have a higher median residency time than those who do not farm. Respondents from the Redmond area have been in the area almost twice as long as those around Sunriver. Older residents, and those who see the quality of life as deteriorating, are more likely to be longer term residents of the area.

Question 7: Where do you live?

0-5 acres outside a city	52%
6-40 acres outside a city	13%
More than 40 acres	2%
In a city	34%

- Almost 6 out of 10 respondents who have come to the County in the past 20 years, live on a 0-5 acre lot.
- While overall, 34% of the respondents live in a city, that figure is much higher, almost 50%, for those who have lived in the area for over 20 years. 4 out of 10 respondents under the age of 35 live in cities. Almost 4 out of 10 respondents from a city, have lived in the area over 20 years.
- One-third of those who say they farm live on a 0-5 acre lot, but they make up only 10% of the 0-5 acre lot respondents. 90% of those who live on 0-5 acres do not farm. 0-5 acre lot dwellers make up a higher percentage of residents in the Sisters (67%), Sunriver (73%), Terrebonne (61%) and La Pine 87%), while larger acreages are more prevalent in the Tumalo, Redmond and other areas. 46% of the respondents from the Bend area, 47% from Redmond, 24% from Sunriver and 13% from Sisters live inside a city.
- 47% of those aged under 35 live on a 0-5 acre lot. This percentage increases as age increases. Among those aged over 65, 57%, almost 6 out of 10 respondents, live on a 0-5 acre lot.

Question 8: Are you in the business of farming?

Yes - full-time	2%
Yes - part-time	14%
No	84%

- Because this is a survey of all county residents, its important to keep in mind that survey questions about farming are being answered by non-farmers. Among the 84% who don't farm, 40% live inside cities, 55% live on 0-5 acre lots and 5% live on 5+ acres. As county residents, their perception about farms is a factor Commissioners must reckon with, even if it is not always based on specific knowledge or experience.
- In the Tumalo area, 51% of the respondents are engaged in farming, 44% on a part-time basis. Among Terrebonne respondents, 48% say they farm, 42% on a part-time basis. In Other parts of the County, which includes East County and Alfalfa, 40% are farmers, 10% on a full-time basis.
- In the Sunriver area, all the respondents with the exception of one, are non-farmers.
- Among Redmond respondents, 7 out of 10 are non-farmers, 19% part-time farmers and 6% full-time farmers.
- In the Bend area, 9% say they farm part-time and 91% don't farm at all.
- All of the La Pine respondents are non-farmers.
- While overall, 16% of the respondents engage in full or part-time farming, that figure is higher among 35-45 year olds (23%) and those aged between 45-55 (21%).
- While overall, 65% of those surveyed say the quality of life in the area has gotten worse over the past two years, almost 9 out of 10 of the full-time farmers who responded feel that way.

Question 31: In which of the following age groups are you?

The sample tends to under-represent the younger segment of the population, i.e., those under 44, and over-represent those 45 and over. Recognizing that older people are usually more inclined to vote and be concerned about government actions, the sample may nonetheless be a real barometer of the public sentiment that is likely to be expressed on these issues. Throughout the report we will make a point of identifying the reactions of people in different age groups.

A commonly used technique to "adjust" a given sample to a known demographic is to use weighing whereby the opinions of a group that is under-represented are given greater weight and the opinions of the over-represented group are given less weight. We have run that comparison and it is available for review. It results in no more than a 1% or 2% variance in some of the figures recorded for survey questions. In our sample, the following age group breakdowns are registered.

Under 35	11%
35-44	27%
45-54	21%
55-64	17%
65 & Over	25%

- Those under age 35 tend to be more recent arrivals (52% have moved to the area in the past 10 years) and are more likely to live in a city. At the other end of the age spectrum, one-third of those aged over 55, have been in the area over 20 years. Reflecting the trend of older people moving to the area, one-third of those between 55-64 have lived in Deschutes County less than 5 years, while a third of those over 65 have moved in over the past 10 years. 43% of the respondents from Sunriver and 34% from La Pine are 65 and over.

Question 35: In which part of Deschutes County do you live?

Sisters area	6%
Tumalo area	7%
Sunriver area	6%
Terrebonne area	3%
Bend area	54%
East County area	3%
La Pine area	6%
Redmond area	14%
Alfalfa area	1%

- 53% of the respondents said they are from the Bend area, 46% of whom said they lived in the city, 47% of whom live on a 0-5 acre lot.
- Among the 14% who are Redmond respondents, 48% live in the city, 34% on 0-5 acre lots and 19% on 5+ acre sites. 40% of the Redmond respondents have lived in the area over 20 years.
- Terrebonne respondents also have a higher than average number of 5+ acre respondents (37%) while 60% live on 0-5 acres.
- In the Tumalo area, 55% of the respondents live on 5+ acres, while 43% live on 0-5 acre lots.
- Two-thirds of the Sisters respondents live on 0-5 acre lots, 21% on 5+ acres and only 13% in the city.
- In the Sunriver area, almost three-quarters live on 0-5 acres and a quarter live inside the Sunriver community.
- While accounting for less than a quarter of the total number of respondents, the Terrebonne, Redmond and Tumalo areas account for over half, 53%, of the respondents engaged in farming. Over half, 58%, of the non-farmers live in the Bend area.

SURVEY OVERVIEW

QUALITY OF LIFE ISSUES

Question 2: Using a scale of 1-10, where 1 is poor and 10 is excellent, how would you rate the overall quality of life in Deschutes County today?

Deschutes County residents generally feel positive about the quality of life in the area. Almost 7 out of 10 respondents rate it as a 7 or higher on a 10 point scale, the median response being 7.4. This compares favorably with a recent Community Attitude Survey we conducted in Washington County where the median response to the same question was 7.1.

The reader should keep this point in mind while reading the report. Generally, people are happy to be living here. But they are concerned about the long-run viability of their current lifestyle.

<u>Rating</u>	<u>%</u>
1	1%
2	1%
3	3%
4	4%
5	12%
6	9%
7	20%
8	33%
9	8%
10	8%

- People who have been in the area for longer periods of time are more inclined to rate today's quality of life poorly. They have a median rating of 6.9 compared to 7.7 for people who have been in the area 5 years or less.
- Farmers tend to rate the area's quality of life slightly lower than non-farmers (7.2 compared to 7.5).
- Sunriver area residents and those from Sisters are more likely to be enthused about quality of life (7.8). Terrebonne respondents provide a 7.5 rating. Tumalo area (7.3) and Bend area residents (7.5) are more positive than those from La Pine (6.9) and Redmond (6.7).
- Ratings are higher among the 55-64 age group (7.7), those over 65 and those between 35-44 provide ratings of 7.4, respondents between 45-55 return a 7.3 and the lowest rating of 7.1 is registered among the youngest age group of 35 and under.
- Not surprisingly, those who see the quality of life as having improved over the last two years are very enthusiastic (8.5), those who see it as having stayed the same are also pleased (8.0) while those who see quality of life as deteriorating only rate it a 6.9.

Question 3: Do you feel that the overall quality of life in Deschutes County has improved, stayed about the same, or gotten worse over the past two years?

Significantly, two-thirds of the respondents feel that quality of life in the area has gotten worse.

Improved	8%
Stayed about the same	23%
Gotten worse	66%
Don't know	3%

- While overall 66% say quality of life has deteriorated, that opinion is more prevalent among 20 year residents (76%), people from East County, Alfalfa and other outlying areas of the county (81%), as well as people from Tumalo (79%) and those in the 45-55 age group (72%).
- More inclined to say quality of life has remained about the same are people who have been in the area less than 5 years (34%), those under 35 (31%) and people in the 55-65 age group (28%).
- Providing a higher than average return response for an improved quality of life were respondents who have been in the area 11-20 years (11%), those who live on 5+ acres (12%), farmers (11%), people from Sisters (13%), Sunriver respondents (12%), Terrebonne area residents (16%) and people from La Pine (14%).

It is very clear that the perception of a deteriorating quality of life is a prevailing and majority opinion across all geographic areas and demographic groups within the county.

Question 4: Why do you think this change has occurred?

Policy choices are made easier if there is a sense of consensus about what is happening and why. Question 4 attempts to see if there are any common themes that exist among respondents. It is an "open-ended" question and, rather than check from a list of responses on the survey, respondents were asked to write their viewpoint on the survey form. Western Attitudes then coded these responses into the most common categories. A sampling of comments regarding traffic, population increases, growth and development is included as Appendix C. Commissioners and staff are encouraged to review specific comments to this and other open-ended questions on the survey. Overall, the most common reasons given for the change in quality of life were too many people (26%), traffic (22%), and growth and development (12%).

- Among the 9% of those who believe that quality of life in the area has improved, the reasons most frequently cited include better services and shopping (34%), additional recreational opportunities (10%) and the positive benefits of growth and development (19%).
- Among the two-third who believe the area's quality of life has deteriorated, 35% point to the influx of too many people who often have values different from longer term residents and financial resources that escalate prices and costs in the area. 25% make

references to an overburdened transportation network and the traffic congestion generated as more and more people come to visit and stay in the area. 12% are concerned about what they see as other negative impacts of growth and development and a further 10% don't like the price and cost increases that have occurred in the area.

Question 5: Please name the one thing you most enjoy about living in Deschutes County?

This question was also an "open-ended" question. Overall, the area's scenery, natural beauty and clear air were cited as the number one attraction by some 30% of the respondents. 22% mentioned the weather, a further 16% the closeness to recreational opportunities and 10% mentioned the rural character of the area. 28% of Redmond residents mention the weather. 42% from Sunriver and 35% from Terrebonne mention scenery, natural beauty or clean air. Rural character is more important for people from the Other parts of the county.

- The correlation between people's rating of quality of life in the area and these factors provides some useful insights.

	<u>Quality of Life</u>		
	<u>Improved</u>	<u>Same</u>	<u>Worse</u>
Scenery, natural beauty, clean air	22%	27%	32%
Weather	31%	21%	21%
Recreational opportunities	16%	15%	17%
Rural character	6%	11%	11%

Those who believe the quality of life in the area has gotten worse express greater concern about issues like scenic beauty, clean air and the rural character of the community.

Question 6: If there were one thing about Deschutes County you'd like to change, what would that be?

This was also an "open-ended" question. Concerns about growth (22%), transportation/traffic (21%), development (13%), and government (12%) dominate the responses. A verbatim listing of changes people would like to make to government is included in Appendix A. Appendix B contains samples of comments respondents made related to growth and development; transportation; and "Other" issues.

- Among those who believe the quality of life has improved, there is greater concern about transportation/traffic issues (27%) and government (18%). Transportation (29%), is also a more significant issue for those who say quality of life has remained about the same. For those who believe quality of life has deteriorated, transportation (18%) is a secondary issue to growth (28%), while development issues were mentioned by 16%.

- Growth and development issues are of greater concern to respondents from the Sisters and Tumalo area as well as those in outlying areas.
- Transportation concerns register higher than average interest among those aged under 35, Sunriver and Bend area residents and longer term residents of the county. The proposal to route traffic through downtown Bend appears to draw significant controversy.
- Taxes are more significant for respondents from the Redmond and La Pine areas

USE OF FARM LAND IN THE COUNTY

This section of the survey form contained the following introduction. *"Most of the land outside cities is zoned for farm or forest use. Under Oregon land use law "farm use" is the raising, harvesting and sale of crops and livestock for a profit. Farm use is usually either "commercial farms", which are full-time farming operations or "hobby farms", which are part-time, smaller-scale operations subsidized by off-farm income."*

84% of the respondents are not in the business of farming. Among the 16% who are, 14% farm on a part-time basis and 2% are full-time farmers. The number of farming respondents is only 168 and, as mentioned in the Methodology section of this report, care should be exercised in making extrapolations on the basis on the answers to this and the following question.

Question 9: How many acres do you farm?

Less than 10 acres	51%
10-20 acres	23%
20-40 acres	14%
More than 40 acres	13%

- Respondents answering this question have a mean farming acreage of about 32 acres and a median of about 10 acres. Acreages in the Redmond area tend to be larger than those in Terrebonne and Tumalo which, in turn, are larger than those in the Sisters and Bend area.
- People in the 45-55 age group farm larger properties (median average of 16.3 acres) compared to 7.0 acres for those under 35.

Question 10: What kind of livestock or crops do you farm?

Cattle	49%
Horses	36%
Hay	37%
Llamas	5%
Crops	5%
Other	37%

- Just under half the farming respondents have cattle. Older and longer term residents, those on larger properties, people from the Redmond and Terrebonne areas and those who believe the quality of life in the area has improved, are more likely to run cattle. Many of the farms with cattle also grow hay.
- Just over one-third have horses. A higher than average percentage is recorded among more recent arrivals, those in the Sisters and Redmond areas, younger people and those in the 55-65 age group.
- 37% have hay crops, 5% llamas and 5% other crops.

Question 11: In your opinion, is there now too much, about the right amount, or too little land zoned for commercial farm use in Deschutes County?

35% of the respondents provided a "don't know" answer to this question. 30% of the respondents felt that the amount of land zoned for commercial farm use was about right, 21% said there was too little, while 13% indicated there was too much.

Right Amount	30%
Too little	21%
Too much	13%
Don't know	35%

- More inclined to believe there was too little land zoned for commercial farm use were longer term residents (27%), those who live on 5+ acre parcels (29%), farmers (30%), Tumalo (30%) and outlying area respondents (33%), and those who believe the quality of life has gotten worse (27%).
- Those who believe the quality of life has improved have a different perspective. Among this group, 32% say there is too much land zoned for commercial farm use, while only 8% say there is too little. Though not as extreme, this view is also held by those who those who believe the quality of life has stayed constant over the past two years, 18% saying there is too much while 9% say there is too little.

Question 12: Do you think Deschutes County is losing land which is reasonably capable of supporting commercial farms?

Yes	44%
No	30%
Don't know	26%

- By an overall margin of 14%, respondents believe the County is losing such land.
- The margin tends to be even wider among longer term residents (21%), those who live on 5+ acres (21%), farmers (28%), Tumalo residents (24%), Redmond residents (21%), Other area respondents (32%), those aged 35-55% (20%) and those who see quality of life as having deteriorated (31%).
- The margin is quite different and is actually reversed among those from the Sunriver area, among those who say quality of life has either improved or stayed the same. Terrebonne residents are tied on this question.

Question 13: If you believe the County is losing land which is reasonably capable of supporting commercial farming, why do you think this is happening?

- Respondents were provided with a set of eight alternatives to rank. Small lot divisions (67%), speculative values (54%), non-farm conflicts and the lack of profit in farming (31%) were the reasons most commonly cited. 26% mentioned too many land use regulations as an inhibiting factor.
- This ranking was fairly common across all geographic and demographic groups with the exception that farmers were more inclined to rate "no profit in farming" higher and too many land use regulations was more significant for those from the Sisters, La Pine and Other areas, among those over 65 and among those who feel the quality of life has remained about the same.

Question 14: Should certain uses be restricted in rural areas of the county so that land currently zoned for commercial farm use can be used more productively?

Yes	75%
No	25%

- Overall, 75% of the respondents favor some restriction on land uses in rural areas. Support for restrictions is higher among the 35-55 age group (83%) and among those who feel the quality of life has deteriorated (82%).
- On the other hand support for no restrictions is higher among those who live on 5+ acres (32%), farmers (31%), respondents from Sunriver (35%), Redmond (30%) and those who feel quality of life has improved in the area (43%).
- Those who supported restrictions were asked to indicate which of the most common non-commercial farm uses they would seek to restrict. 60% indicated subdivisions, 58% destination resorts and 53% golf courses, 19% would restrict non-farm residences and 10% would seek to restrict hobby farms.

Subdivisions	60%
Destination resorts	58%
Golf courses	53%
Hobby farms	10%
Other	12%

- A higher than average interest in restricting subdivisions was expressed by farmers (64%), respondents from Tumalo (67%), those in the 35-44 age group (69%) and those who believe quality of life has gotten worse (69%).
- Sisters and Tumalo residents (67%), those under 45 (63%) and those who feel quality of life has deteriorated (66%) are more inclined to want to restrict destination resorts.
- Golf courses are also less popular with the under 45 age group (57%) and those who see quality of life as deteriorating (60%).

Question 15: If land currently zoned for farm use can't reasonably support commercial farms, what other kinds of uses should be allowed on the land?

Respondents were asked to indicate preferences among eight alternatives. Results were as follows:

Hobby farms	61%
Designated wildlife habitat	60%
Designated open space	55%
5 acre residential subdivisions	34%
10-20 acre subdivisions	30%
Cluster Housing	23%
Destination resorts	15% *
Other	6%

- Hobby farms have greater support among those on 5+ acres (72%), farmers (82%) respondents from Tumalo (69%), Terrebonne (69%) and those under 55 (66%).
- Wildlife habitat enjoys greater support among those from Sunriver (65%) and La Pine (69%) as well as those who feel quality of life has deteriorated (65%).
- Designated open space is more popular with those residing in cities (60%), people from the Sunriver (65%), people over 65 (60%) and those who see quality of life as getting worse (62%).
- 5 acre residential subdivisions are more favored among Terrebonne (41%) and La Pine (42%) residents and by those who see quality of life as having improved (51%), or stayed about the same (43%).
- 10-20 acre subdivisions have more support among residents on 5+ acres (44%), farmers (40%), Sisters and Tumalo residents, those in the 35-45 age group (35%) and those who see the quality of life as improved (35%).
- Cluster housing has more support among respondents from Sisters (30%), Sunriver (30%), people over the age of 55 (26%), and those who believe the quality of life has improved or stayed about the same (32%).
- Support for destination resorts is more pronounced among those on 5+ acres (19%), farmers (19%), Sunriver (23%) and Terrebonne (34%) respondents and those who see quality of life as having improved (48%) or stayed about the same (20%).
- Looking again at quality of life ratings provides additional insights. Remember that, of the total sample, 9% feel that quality of life has improved, 23% think it has stayed about the same and 65% say it has gotten worse.

	Improved	Quality of life	
		Same	Worse
Hobby farms	58%	54%	63%
5 acre residential subdivisions	51%	43%	29%
10-20 acre residential subdivisions	35%	32%	29%
Cluster housing	31%	33%	19%
Designated open space	31%	43%	62%
Designated wildlife habitats	33%	53%	65%
Destination resorts	48%	20%	9%

Among those most concerned about the deteriorating quality of life, farming and wildlife/open space issues are paramount. Those who say the quality of life has improved are more willing to support other kinds of development in rural areas.

Question 16: Which of the following statements about hobby farms most closely matches your own opinion?

Respondents were given five statements to consider. Statements ranged from prohibiting hobby farms to allowing them to locate anywhere in the county.

<u>Statement A</u>	
Prohibit	2%
<u>Statement B</u>	
Discourage additional ones	5%
<u>Statement C</u>	
Allow on non-commercial farm land	47%
<u>Statement D</u>	
Encourage in farm use zones	16%
<u>Statement E</u>	
Allow anywhere in rural areas	29%

- There is a significant level of public support for the encouragement of hobby farms in the county, particularly on property where commercial farming is not a viable option.
- Expanding hobby farming potential would likely generate even greater support among people with 5+ acres sites, farmers, younger age groups and those who believe quality of life has improved.

To summarize public opinion regarding the use of farm land, there is public interest in protecting and even expanding land suitable for viable commercial farming in the county. People see small lot divisions, speculative values, non-farm conflicts and the lack of profit in farming as major reasons for the loss of commercial farm land. Restricting certain uses to enable the good farmland to be used more effectively has public support. On land currently zoned, but inappropriate for commercial farming, hobby farms and designated open space and wildlife areas, are preferred uses. Hobby farms are a popular alternative among all geographic and demographic groups in the county.

NON-FARM DEVELOPMENT IN FARM USE AREAS

Questions in this section of the survey form were prefaced with the following introduction. *"Some non-farm residential development has been allowed in rural parts of the county. Examples are single family homes on lots of ten acres or less with little or no irrigation, subdivisions with lots of 1-10 acres in size and planned or clustered developments with houses and designated open spaces."*

Question 17: In your opinion is there now too much, about the right amount or too little land available for non-farm residential development in rural Deschutes County?

Too much	28%
About the right amount	27%
Too little	21%
Don't know	24%

- One-quarter of the respondents did not offer an opinion on this question. People in this category were more inclined to be more recent arrivals and older residents.
- More inclined to believe there is too much non-farm residential development are longer term residents (32%), farmers (35%), Tumalo respondents (35%) and those who rate quality of life as deteriorating (37%).
- People from the Sisters, Sunriver and La Pine areas are more inclined to see the current level as about right.
- Among those who believe there is too little non-farm residential development are those on 5+ acre parcels (28%), farmers (28%), Terrebonne residents (42%) and those who believe the quality of life has improved (48%).

Question 18: If more rural non-farm residential development is needed, on what type of land should it occur?

People who felt, in Question 17, that there was too little rural land available for non-farm residential development were given seven options on where to put this kind of development. 78% favored putting it on land that can't support commercial farms.

Land that can't support commercial farms	78%
Where current lot sizes are under 10 acres	52%
On non-irrigated farmland	51%
Where current lot sizes are 10-20 acres	34%
Anywhere	30%
Irrigated farmland	11%
Other	8%

- Support for using land unsuitable for commercial farming was more pronounced among 6-10 year residents (63%), those on 5+ acre sites (61%), farmers (60%), and those under 35 (61%).
- Support for placing new development near existing lots under 10 acres in size is more likely to come from those who have been in the area 5 years or less (59%), those who currently live on 0-5 acre lots (59%) and younger people.
- More likely to favor the use of non-irrigated farmland are those on 5+ acres (59%), farmers (60%) and younger people.
- 10-20 acre lots are more preferred by 11-20 year residents (41%), those in the 35-45 age group (67%) and those who believe quality of life has improved (45%).

- Stronger than average support for the ability to place non-farm residential development anywhere in the county comes from more recent arrivals i.e. under 5 years in the area (37%), city dwellers (37%), Sisters (44%), Redmond (38%), those between 55-65 (44%) and those who say quality of life has improved (38%).

Question 19: Should non-farm residential development be prohibited in any of the following areas?

Yes	76%
No	24%

Three-quarters of the respondents favor restricting non-farm residential development in certain areas. Six categories of land were listed. Respondents were most concerned about protecting important wildlife habitats (55%) and land suitable for commercial agriculture (48%).

Important wildlife habitats	55%
Land suitable for commercial agriculture	48%
Land historically used as a farm	24%
Areas without public roads or utilities	24%
Land with outstanding scenic views	15%
All rural land	5%
Other	2%

- Concern about wildlife habitats is more apparent among younger people and those who see quality of life as deteriorating.
- Protecting commercial farmland is also a larger concern with those concerned about a worsening quality of life.

To summarize this section on non-farm development in rural areas, a slim majority (55%) feel that there is currently either too much or about the right amount of non-farm residential development in rural areas. Among those who would like to see more, there is a preference for seeing it located on land that can't support commercial farming, is non-irrigated, is on smaller lots of 10 acres or less and is non-threatening to wildlife habitats.

FARM USE AND NON-FARM USE CONFLICTS

Question 20: If you farm in an area where non-farm residential uses exist, what types of conflict, if any, do you have with non-farmers?

Almost half, 46%, of the farmers responding to this question indicated that they have had no conflicts with non-farming neighbors. Among those that did, the most frequently cited events were harassment of stock and trespass.

Question 21: If you live in a farm use area, but don't farm, what types of conflicts, if any, have you experienced with neighboring farmers?

80% of the respondents reported no incidents of conflict with neighboring farmers. Among those that did, the presence of noise, dust, odors and the like was most common.

Question 22: In your opinion, should the County impose additional regulations to minimize conflicts between farm and non-farm uses?

Respondents were fairly evenly divided on this issue and these results fall within the margin of error for the survey.

Yes	54%
No	47%

- More inclined to support additional regulations are those in the 35-55 age brackets (59%) and those who see a worsening quality of life (60%). More likely to oppose additional regulations are Terrebonne area residents (69%), and those from La Pine (57%), those under 35 (56%) and those who see an improving (57%) or static (59%) quality of life.
- Respondents who favored additional regulations were presented with a choice of seven options. There was no clear support for any one option. 23% identified prohibiting new lots for non-farm uses, 22% liked the idea of requiring new non-farm residents to sign a letter acknowledging they were moving into a farm zone and 21% suggested additional buffering or screening requirements.

In summary, while conflicts between farm and non-farm uses were mentioned in an earlier question as a possible reason for the loss of commercial farm land, day to day experience does not indicate any significant operating conflicts. Support for additional regulations in this area is probably driven by issues other than the resolution of any current difficulties.

DESTINATION RESORTS

This section of the survey was prefaced by the following introduction. *"A destination resort is a self-contained development providing permanent residential housing, visitor accommodations and recreational facilities in an attractive natural setting. Examples of destination resort type development in Deschutes County are Black Butte Ranch, Eagle Crest, Sunriver and the Inn of the Seventh Mountain. Destination resorts are a non-farm use which state law allows on some lands zoned for farm use."*

Question 23: What do you see as the most positive impacts of destination resort development?

Nine choices were identified. Respondents indicated the following:

Creation of jobs	79% - <i>minimum wage jobs</i>
Economic development	69% - " " " "
Increases assessed value in the County	43%

Adds recreational opportunities	42%
Maintains open space	12%
Adds scenic value	8%
Provides wildlife habitat	8%
Improves quality of rural life	6%
Other	3%

- While creation of jobs was seen to be the major positive impact of destination resorts, many people commented that these were low paying and not usually family wage jobs.

Question 24: What do you see as the most negative impacts of destination resort development?

Again, nine choices were identified and people selected the following:

Strain on water resources	63% *
Traffic congestion	55% *
Impacts on wildlife habitats	37% *
Strain on public facilities	34% *
Detracts from rural quality of life	34%
Increases rural property values	25%
Rural sprawl	23%
Detracts from scenic views	8%
Other	5%

In many instances, the strain on water resources is associated with golf course facilities at resorts.

Question 25: In your opinion are there now too many, about the right amount, or too few destination resorts in Deschutes County?

Almost half, 49%, of the respondents believe there is now about the right amount of destination resorts in the county.

Too many	31%	80%
About the right amount	49%	
Too few	14%	
Don't know	6%	

- The low number of "don't know" responses indicates that people have fairly well-developed feelings on this issue.
- More inclined to believe there is now the right amount are relative newcomers (54%), people from Sunriver (68%) and La Pine (58%), those over 65 (54%) and those who believe the quality of life has stayed about the same over the past two years (56%).
- Those who are more likely to say there is now too many destination resorts are farmers (38%), Tumalo residents (43%), those in the 35-45 age group (38%) and those who believe the quality of life has worsened (40%).

- Likely to favor more resorts are those on 5 + acres (22%), farmers (23%), people in the Terrebonne area (42%) and Redmond area (20%), as well as those who believe quality of life has improved (47%).

Question 26: Present state and county regulations allow destination resorts to build up to two permanent residential housing units for each unit of overnight lodging. What is your opinion about the development of permanent residential housing at destination resorts?

Respondents were asked to choose among different ratios of housing to lodging units.

Allow at current 2:1 ratio	23%
Allow, but fewer than 2:1	19%
Allow, but at more than 2:1	10%
Do not allow it	27%
Don't know	22%

Opinion is not so definitive on this issue. 22% did not offer an opinion. A total of 33% would either allow housing at the current 2:1 ratio (23%) or even expand it (10%). 27% would seek to disallow residential housing, while 19% would allow it, but want to reduce the ratio to something less than 2:1.

Question 27: If you want to disallow or restrict the ratio of housing units to lodging units, would your opinion change if restricting or prohibiting permanent residential housing units would reduce or eliminate the resort development's economic viability?

Three-quarters of the respondents who favor prohibition or restriction on permanent housing say they would be unlikely to change their mind on this question. [They are clearly opposed to additional resort development.]

Question 28: Should destination resorts be allowed on any of the following lands?

	<u>Yes</u>	<u>No</u>	<u>D. K.</u>
Land that can reasonably support commercial farm use	11%	75%	13%
Irrigated land zoned for farm use	12%	73%	15%
Non-irrigated land zoned for farm use	40%	43%	18%
land that has historically been used as a farm	18%	59%	23%

The greatest support for, and least opposition to, siting additional resort developments in farm use areas is on non-irrigated land. Location of resorts on other types of lands is likely to focus strong public opposition on the project.

To summarize, the public sees the creation of jobs and economic development benefits as the key positive impacts of resort developments. They are concerned about the strain such developments put on water and wildlife resources in the area and the traffic congestion that accompanies such developments. There is a general

sense that there are enough destination resorts in the area, though not a majority interest in reducing the ratio of permanent housing to overnight lodging units. There is more public support for siting such facilities on non-irrigated land than on other farm use areas. Special consideration needs to be given to issues of water resources and traffic impacts associated with their development.

FISH AND WILDLIFE HABITATS

This section of the survey contained the following introduction. *"The County protects important rural habitats for fish and wildlife through zoning regulations, minimum lot sizes, clustering of dwellings and designation of open space."*

Question 29: Do you believe important fish and wildlife habitats are being adequately protected under the County's current regulations?

Yes	27%
No	56%
Don't know	17%

- Respondents are probably not familiar with county regulations in this area, so this result is as much a reflection of the overall concern about protecting the natural assets of the area as it is a commentary on the county regulations.
- More likely to believe that regulations are adequate are those on 5+ acre lots (32%), farmers (33%), those from the Terrebonne (48%) and La Pine areas (36%), 55-65 year olds (38%), those who believe quality of life has improved (53%) and those who say it has stayed about the same (37%).

However, across most geographic and demographic groups, a majority of people do not believe that adequate protection exists for important fish and wildlife habitats.

Question 33: In your opinion, what can be done better to protect fish and wildlife habitats in rural areas?

Respondents were asked to choose from a list of ten actions. While many people expressed difficulty in choosing among options and thought they all ought to be implemented, the most popular were:

Prohibit removal of riparian (streamside) vegetation	50%
Limit residences in important big game habitats	45%
Prohibit development in wetlands	45%
Limit development that interferes with nesting sites	36%
Limit the use of herbicides and pesticides near streams	32%
Require developers to enhance habitats	28%
Restrict fences & dogs in important big game habitats	19%
Clustering of dwellings to maximize open space	16%
Seasonal road closures	12%
Other	8%

ADDITIONAL COMMENTS

Space was provided at the end of the survey form for respondents to make any additional comments about rural lands in the county that they would like to pass on to the Board of County Commissioners. 561 respondents took the opportunity to do so and these remarks should be mandatory reading for commissioners and staff to understand, in a qualitative sense, what the quantitative numbers in the survey are all about. Samples of comments regarding growth, farming, government, development, and other issues are included in the appendix.

EXHIBIT "A"

G-12905
ARLU-DeCo.
6-29-93

(12 pages)

TESTIMONY OF ARLU-DECO ON WATER ISSUES IN GOAL 8 MAPPING

JUN 24 1993

WATER RESOURCES
SECTION, BUREAU OF LAND MANAGEMENT

Introduction

Goal 8 must be read in conjunction with other goals. The county must take into account all other resources when evaluating appropriate siting of destination resorts. Among those resources, one of the critical ones is water. Existing reports reflect that groundwater and surface water flows in the Deschutes River Basin are extremely complex and in many cases declining. Existing data is insufficient to determine whether the water resource has the ability to handle the heavy additional draws that would result from destination resort siting.

The statutes and policies which address ground and surface water management in this state mandate extreme care. No action by the County, including mapping for destination resort siting, can lawfully result in contamination or reduction of groundwater or surface water of the state. Since insufficient data exists and potential for harm is great, more data should be required before mapping is completed.

As we all know, Deschutes County is one of or perhaps the fastest growing county in the state of Oregon. Consequently, great care must be taken to fully document the current state of groundwater and surface water resources prior to mapping of destination resort areas. It will serve no purpose or party to establish destination resort areas, which ultimately turn out to have no reasonable access to water.

Goal 8 mapping cannot reasonably be expected to ignore or overlook this critical issue. Water is the life blood of any human existence. Destination resorts must have water to flush their toilets, service their human populations, and usually to water their golf courses or other associated recreational facilities. Thus, water resource existence and condition must be a critical element in any rational mapping scheme.

Existing Problems That Must Be Considered

There are numerous problem areas that the County must take into account in its mapping process. The following are merely some of the most significant problems:

- The final recommendations to LCDC, from the working group on golf courses in EFU zones (8/15/91) must be taken into consideration in the mapping process. Golf courses are almost always attached to or associated with destination resort developments. One of the task forces critical recommendations was the need to site golf courses in areas with adequate water supply. There are, of course, many other important and relevant criteria that are discussed in that report in addition to water supply availability, that should be taken into account by the County.
- In 1991 there were already ten golf courses in the Bend area. One of these golf courses pumped an estimated one million gallons per day for irrigation. (King 1991, p.5). Additional resorts will draw additional water. Care must be taken in the mapping process to avoid areas where additional golf course construction will potentially create quantity or quality problems.
- Mapping must also take into account existing efforts to obtain "toehold developments." These are developments that are approved as smaller areas, but which the developer later endeavors to metamorphose into destination resorts.

For example, KMB Enterprises currently has a cluster development in the Squaw Creek Basin. KMB is not approved as a destination resort. Nonetheless, KMB recently (7/17/92) successfully represented to the Water Resources Department and Commission that it was a "destination resort, golf course" which should receive a quasi-municipal groundwater right. Goal 8 mapping must take into account efforts by such developments to obtain incremental increases in land use designations, which may result in "de facto" destination resorts.

- In an October 1991 technical reconnaissance report on the groundwater resources in the Upper Deschutes Basin, the US Bureau of Reclamation concluded that Clarno formations have little groundwater potential. (King, 1991 p.3) This report also noted that Deschutes formation areas have numerous perched water bodies and are subject to drainage from commingling and to depletion from high access draws. (Id.) Thus, destination resorts should not be mapped for any area that contains significant Clarno or Deschutes formations. All areas where such formations are found should be excluded from siting.
- According to King and others, most shallow aquifers in the Deschutes Basin discharge significant amounts of groundwater through springs in the canyons of the Crooked and Deschutes Rivers. A groundwater trough is found to coincide with these Rivers. Groundwater recharge flows towards the center of the trough and then along the trough towards the north. These flows are then discharges from springs into these important rivers. (King 1991, p. 4 and Frink 1968). To protect the flows of the Deschutes and Crooked Rivers then, destination resorts should not be mapped into any area where wells would potentially affect aquifer recharge flows and Deschutes and Crooked River spring flows.
- King also reported that water levels and shallow aquifers throughout the Bend-Redmond area (and probably throughout the Basin) are often directly related to conveyance losses from irrigation canals. Consequently, destination resorts would not be appropriate for any areas which have shallow aquifers. Such areas should be excluded from consideration unless, as a condition of siting, the developer is required to furnish proof that there will be no interference with or depletion of existing shallow aquifer flows.

- "Analysis" done at the behest of the Eagle Crest resort indicates that areas of the Deschutes Basin such as Powell Butte, Grizzly Butte, Smith Rocks, and Cline Buttes have rock formations with reduced permeability. It appears then, that destination resorts should not be allowed near such areas unless deep aquifer extraction is required as a condition of such siting.
- Likewise, USGS #84-4095 (water resources in Eastern Oregon) indicates that Cline Buttes is an older volcanic aquifer (OVA) which has low permeability and is generally capable of yielding only a few gallons per minute. Such OVA regions exist throughout the County. For the previously specified reasons such areas should not be considered available for resort siting.
- The County also cannot ignore the current drought. Such situations are not unheard of in the past and will undoubtedly occur again in the future. Current Soil & Water Conservation Service reports indicate that snow pack is less than 65 percent of normal. In such circumstances, regardless of whether recharge normally occurs, it will not continue to occur until the drought ends. Destination resort mapping must take into account drought years and potential problems that will occur if destination resorts are sited in areas that are subject to significant water level declines, recharge problems or contamination due to drought alterations in flow (or lack thereof).
- Well logs from a variety of wells in Deschutes County have already been submitted by Marion Mallard on 1/8/92. We incorporate these well logs by reference in our testimony. These logs show declines in water levels throughout the basin. In some cases, wells are down by as much as 25 feet. Many wells are down at the same level as readings taken shortly after the 1976 drought. This indicates the need for comprehensive review of well log information available to the County, prior to the completion of the mapping under Goal 8.

County Obligation To Protect Water Resources

The County has a duty to map in a fashion that will not harm the quality or quantity of existing water resources

for present or future instream and out of stream users. That obligation arises from many sources, including:

- 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. In mapping under Goal 8, to maintain consistency with prior planning documents, the county must take into account the goals and policies in that study.

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 cannot locate destination resorts in areas that may provide critical groundwater flow for the identified rivers and streams.

- Existing state policy is: "to protect, maintain, and improve the quality of the waters of state* * *" and to "provide for the prevention, abatement, and control of new or existing water pollution." See, ORS 468B.015(2) & (4).
- By law "Pollution of any of the waters of the state [of Oregon] is declared to be not a reasonable or natural use of such waters and to be contrary to the public policy of the state of Oregon." ORS 468B.020(1).
- Moreover, "[I]t is the goal of the people of the state of Oregon to prevent contamination of Oregon's groundwater resource while striving to conserve and restore this resource and to maintain the high quality of Oregon's high quality resource for present and future uses." ORS 468B.155.
- "Groundwater overdraft and contamination shall be prevented to avoid health hazardous, environmental damage, and costly correction programs. 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." OAR 690-410-010(1).

- As an arm of the state, the county must cooperate with other agencies of the state as well as other states and the federal government to carry out the objectives specified above. See, ORS 468B.015(5). Likewise ORS 536.220(1)(b) indicates that "a proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy * * *" (Emphasis added.)

The County is bound by the Oregon Legislature's mandate on ground and surface water management policies. Those mandates are quite clear. The county cannot lawfully act in a way that would harm surface or groundwater quality or quantity.

- Depletion of groundwater aquifers and additional increasing demands on surface water sources, which will occur upon operation of a destination resort, also runs afoul of statutory water management policies. ORS 536.310(1) specifically requires that "existing rights * * * are to be protected and preserved subject to the principle that all of the waters within this state belong to the public for use by the people for beneficial purposes without waste." Thus, existing water users in the County must be protected. When mapping for destination resort sites the county must exclude all areas that may create harmful impacts on water availability and use by existing group or individual users.
- State water policy also requires that "Competitive exploitation of water resources of this state for single-purpose uses is to be discouraged when other feasible uses are in the general public interest." ORS 536.310(5). A destination resort is a single-purpose use. In many instances, numerous other feasible uses which are more in the general public interest, such as individual, domestic, agricultural, wildlife, fisheries, or recreational uses of water will be eliminated or harmed by siting of a destination resort. In mapping, the County must make careful evaluations and explicit findings that each proposed siting area will not result in single-purpose use of that area to the exclusion of other feasible uses that are in the general public interest.
- Current state law also mandates that "Statewide programs to identify and characterize groundwater quality shall be conducted." See, ORS 468B.160(3). Given this mandate, Deschutes County must undertake

reasonable studies and evaluations of the groundwater in the Basin in order to identify and characterize that groundwater quality prior to mapping for destination resorts which will potentially lead to contamination of that groundwater.

These obligations were highlighted at a recent hearing of the Oregon Water Resources Commission. Following an agonizing debate on whether to grant a groundwater withdrawal right the Commission Chair, Lorna Stickel, specifically directed the Water Resources Department to notify Deschutes and Jefferson Counties, that insufficient information exists to continue siting destination resorts that depend on groundwater. Chair Stickel specifically recommended that:

"the department initiate a contact with the effected jurisdictions, and Deschutes and Jefferson Counties particularly, to appraise them of the fact, that it is likely that these piece-by-piece evaluations of groundwater applications are going to result in some problems and that [the commission] recommend[s] that in order for us to reach positive decisions on some of these, that we are going to have to have a better handle on a groundwater analysis theory and that it - if you leave it up to us, it is going to be awhile before we get to that * * *"

Commissioner Roger Bachman then summarized Chair Stickel's recommendations, noting that Water Resources staff should advise Deschutes and Jefferson Counties that prior to any further destination resort siting, someone must gather and analyze (or present to the Water Resources Department for analysis) more data on groundwater, or:

"we may just have to say stop all these developments until we know."

See, 7/17/92, WRC Trans. p. 11-12 (emphasis added) and tapes submitted at previous Deschutes County Planning Commission Meeting by Jen Twining.

As these statements and the forthcoming notice from the Water

Resources Department make clear, the state is very concerned that there is inadequate data on groundwater in the Deschutes Basin. Mapping of destination resorts cannot and should not be completed until adequate data on groundwater is available.

Lack Of Data Necessary To Map

Groundwater in the Deschutes Basin is a little understood, but nonetheless overused resource. The county simply does not have sufficient data to rationally map for destination resort siting at this time. This is evident from all of the following:

- At the current time, only governmental entities are required to report annual consumption of water. See 7/2/92 Water Resources Department letter to Virgil Harper. Thus, there is no real gauge for determining how much water is being consumed in the Deschutes River Basin and what the true effect of that consumption is on the Deschutes River. Some wells, for example those closest to Smith Rocks (where a destination resort area has been proposed) already show water level declines.

This is of serious concern, since much of the flow of both the Deschutes and Crooked Rivers above Lake Simitustus is based on springs that are fed by groundwater. If groundwater levels are declining, then reduced flows in the already hard hit Deschutes and Crooked Rivers cannot be far behind. In mapping destination resorts, the County must take great care to eliminate those areas where water level declines of any significant nature are evidenced.

- Deschutes County staff apparently recognizes that information necessary to determine the quantity of water available in the Deschutes Basin aquifers and the quantity of water currently being used for domestic and irrigation purposes, including golf courses, is impossible to ascertain without additional study and/or compilation of data. See for example, the 7/24/91 memorandum to planning director Read on this issue from Catherine Morrow.

- In 1984 the state Water Resources Department made findings on water resources in the Deschutes River Basin, as part of the Basis Plan. Those findings specified that:

"The existence of groundwater had been established in certain sections of the Basin, but quantities have not been determined." Plan, p.2, Finding #8 (emphasis added). To date no evidence of a County wide evaluation and analysis of the quantity of such water has been produced.

- The Basin Plan goes on to note that: "It is imperative that single purpose development of available sites does not preclude optimum utilization of the [water] resource." Id. p.4, Finding #36. Thus, it is imperative that in mapping destination resorts the county must act in a way that takes into account ground and surface water quantity and quality. Similar findings were made for all areas of the Deschutes and Crooked Rivers.
- The 1986 River Study acknowledges that "there is little information on groundwater quantity, quality, or flow characteristics in the Upper Deschutes River Basin." River study p.3-4. The study also identified the potential emergence of a problem of contamination of groundwater "and ultimately, the surface waters" due to improperly and illegally installed septic systems. This is a significant concern in mapping for destination resorts, since such resorts usually include septic systems. Extensive analysis of potential for interference with or contamination of groundwater and ultimately surface waters must be completed in order to adequately and rationally map for destination resorts.

Until adequate information about water level declines and existing resources is presented, mapping should be delayed. To map proposed destination resort areas, without knowing the condition of the water resources upon which those resorts will depend, would be irresponsible. It would be analogous to trying to shoot an apple off the head of a small child, in a crowded restaurant, in the dark. You simply don't have enough

information to know where to point, and even if you guess correctly, the probability of an inaccurate and tragic result is extremely high.

Some Suggestions

At the present time, there is insufficient data available for the county to determine whether proposed destination resort areas would affect the ground or surface water quality and quantity. Until such data is collected, mapping cannot be accomplished in a rational fashion and should be delayed.

To reduce this delay developers or other interested in pursuing mapping at a more speedy rate should be required to coordinate and produce information outlining geomorphology, ground and surface water hydrology, ground and surface water quantity and quality, and trends in water quantity and quality, throughout the Deschutes River Basin. It is not enough to require this for each proposed resort. Such a piecemeal approach is inherently unworkable in a mapping situation. Without such information on the entire Basin, the county will be flying blind in mapping destination resort areas.

The parties most suited to provide the financing for such additional data collection and analysis are those interested in profiting from destination resorts. It is only rational to place the burden of producing data to allow such mapping on those who will benefit in a private profit fashion from the existence of such mapping. After all, the burden in any siting proceeding is on the applicant.

The first step in such a process would be simple. Developers could simply collect and tabulate well logs for all known wells in the County. In fact, according to county personnel much of this information should already be in county files. The remainder could be gathered from well drillers and from well owners. These well logs can be tabulated for information on well depth originally and currently, static water levels (past and present), and the types of geological materials located during drilling.

Such a study was recently performed in the Parrett Mountain area of the Willamette Valley by untrained citizens groups. It took three to four months to compile. Think what a paid consultant could do? Although the Deschutes River Basin is a much larger area, nonetheless such a simple initial study would be relative easy, inexpensive, and quite informative. The state Water Resources Department would undoubtedly be willing to cooperate. Given the Parrett Mountain experience the agency probably has suggestions and ideas for the types of data and materials necessary. We strongly recommend that before mapping occurs the County insist that destination resorts developers create a data base of sufficient information to provide a rational basis for the in depth technical analysis and study necessary to map appropriate areas under Goal 8.

Guidelines for water curtailment planning and program development already exist. Some of these guidelines are contained in the Oregon Drought Annex, to the State Emergency Operations Plan 2/91. Others are available from the Water Resources Department. These guidelines contain a basic outline

of the types of questions and analysis that Deschutes County must force resort developers to complete, in order to rationally take into account in the mapping process whether water supplies are adequate, whether future health impacts, future resource impacts, and future land use impacts will occur as a result of water resource implications. Until the data necessary to make rational and reasonable decisions on water resources impacts resulting from siting of destination resorts is collection, mapping for destination resorts is premature.

Thank you for your time and for what we hope will be your in-depth study and response to each of the points we have raised.

Habitat Degradation May Push Grouse To Extinction

By Richard C. Ridenour
For The Bend View

East of Bend, in the still-dark and starless morning sky, the rushing whisper of big wings passing overhead is murmured again and again.

When dawn finally comes, if you haven't seen the Sage Grouse Strutters' Ball before, you might decide you've stepped through the looking glass.

Black birds about the size of chickens appear at the edge of a sage sea, where the sage breaks around an island of open ground.

They wear Darth Vader helmets. Their breasts are white and marked by a dark slash on each side, like ermine trim on a robe for Henry VIII.

They pace stiffly back and forth, spreading spiked tail feathers in a fan reminiscent of a punk haircut.

They inflate air sacs to double the size of their breasts—the slashes open, like incredulous eyes, to allow for expansion.

They dip like a sax player catching a hot riff and rise on tiptoe—spreading their wings like bat capes, they fret the air out of the breast sacs: *Boingk, boingk, boingk*, like a bass string breaking inside a drum.

They twist and turn and check out their neighbors, maybe hunkering down and taking a rush at one who's moved in too close.

These are male sage grouse strutting at the lek.

Lek, according to Ted Wise, Habitat Protection Biologist for the Bend office of ODFW (Oregon Department of Fish and Wildlife), is a biologist's term for the area where the big black male grouse come to stake out territory for the right to display themselves to the females they hope will arrive.

Strut is the term for the territorial mating-display dance.

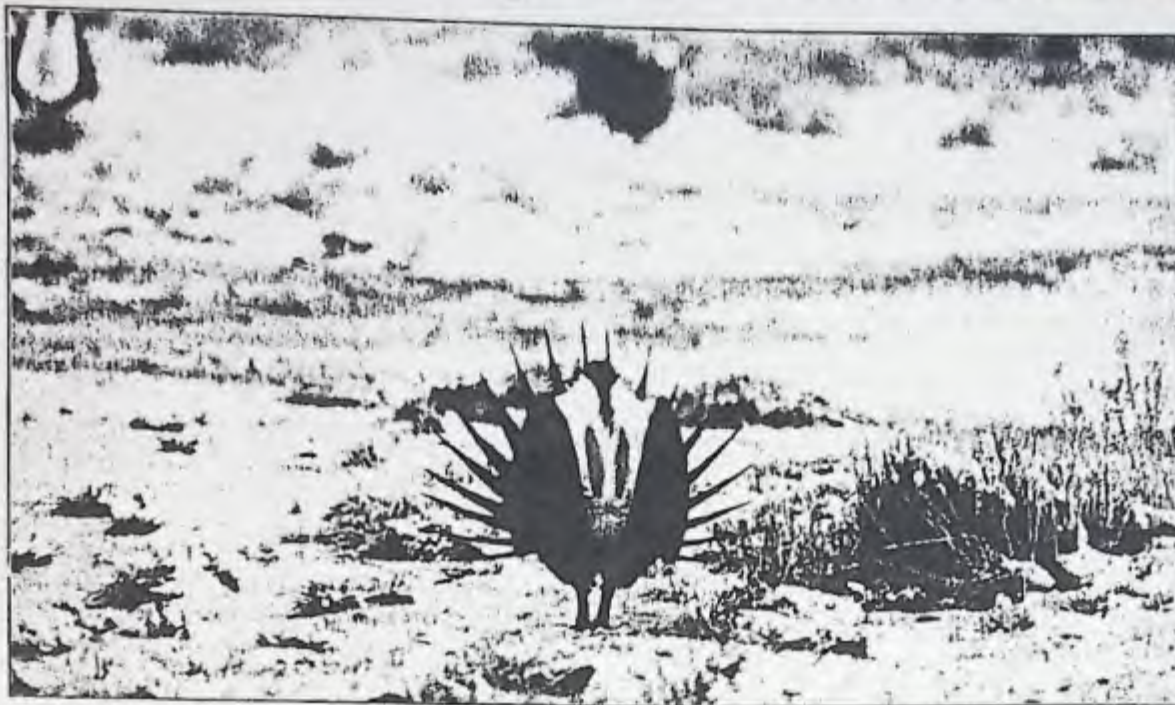
Sage grouse live in a high desert habitat known as sagebrush steppe, a historical habitat reduced by agriculture and still being threatened.

With the exception of high areas like the Blue Mountains, steppe habitat once covered much of Oregon and Washington east of the Cascades, as well as some of northern California.

In Oregon, Wise said, the northern steppe habitat was lost to cultivation. Remaining steppe in Oregon is restricted (with the exception of the high, forested country) to the southeastern quarter of the state. And not all of the remaining steppe supports sage grouse.

Even more alarming, however, is that in areas of historic grouse habitat, grouse numbers are declining.

Bureau of Land Management (BLM) biologist Paul Schmidt recounted the numbers on a recent



The distinctive strut of the male sage grouse's mating dance is becoming increasingly rare in the high desert as more and more of its historic range is lost to habitat degradation. According to some biologists, there is talk of seeking endangered species status for the once plentiful birds.

Photo by Richard C. Ridenour

cloudy, gray high-desert morning at a lek east of Bend.

"In the '60s there were 81 birds here," he said. "Today there are 12."

Sage grouse authority, Dr. John Crawford, wrote in the March 1982 issue of "Oregon Wildlife."

"Regardless of short-term fluctuations or long-term periodic changes, the trend of sage grouse population has been downward for the past 30 years."

Although differences between past and present count methods may account for some apparent population fluctuations, Norm Behrens (wildlife biologist, Deschutes District), Steve George (assistant wildlife biologist, Deschutes District), Schmidt, and Wise agree the trend has continued down.

Although ODFW isn't ready to settle on a reason for declining numbers since beginning the current study, Wise said he was partial to habitat degradation, pointing to the grouses' dependence on a variety of habitats.

They require areas of short, open sage, with high visibility for strutting. They also require areas of high sage and high grass for nesting and because they nest on the ground, high growth is critical to protection from predators.

Throughout their habitat, all sage grouse depend heavily on a variety of forbs (a biologist's term for flowering annuals and perennials except grasses), especially the females in spring.

Essentially, the adult grouse diet consists of forbs in spring, summer, and fall. Winter range is the tall sage, where the birds feed on sage sticking

above the snow.

Overgrazing, Wise said, has destroyed the grass and forbs. He pointed to the ground at a lek: no forbs, no grass—just cow pies and scrub sage.

Too, he observed, human activities increase predator populations.

Cattle operations, for example, provide food such as afterbirth, dead animals, and garbage for ravens and coyotes. That creates a healthy predator force preying on a weak and declining grouse population, he explained.

Combine habitat degradation with increased predation, Wise explained, and you've doubly handicapped the

grouse.

Too, Wise added, absence of fire (the result of fire suppression and overgrazing) leads to old-growth sage, pretty to look at but missing the food variety necessary to sage grouse.

And what does Wise say about a winter like the last one, with the greatest snow accumulation of the century?

"It's too early to tell," he said. "We're just starting to get the numbers. Remember what we counted this morning? Twelve birds at one lek, 14 at another, five at another. They were all males. We counted only two females, and they were alone at a separate lek."

But Wise agreed when Schmidt

pointed out the importance of many counts during the strutting season because of variables, including human interference.

Wise and Schmidt nevertheless agree grouse numbers are in decline—serious enough decline that Wise said he's heard some conservation groups in Washington state, possibly some in Oregon, are talking about endangered species status for the grouse.

Wise and Schmidt agreed, too, on exercising care when observing the grouse, especially during mating season. The breeding period is short (about 1.5 months), Wise noted, adding: "If our disruption prevents the birds from breeding, we lose the year's production of birds."

Agencies don't therefore publicize the location of leks, although a couple are well known locally.

For those who want to watch the dawn ritual, Wise said to check with ODFW or BLM. Depending on conditions, they may direct watchers to one of the better-known leks.

If you go, Wise requested that you:

- arrive well before daybreak so you don't disturb incoming birds;
- not drive into the lek; and,
- stay back at least 100 yards, preferably 200.

EXHIBIT "J"

G-12406
APRIL-DECEMBER
6-29-93

JUN 8 1993

WATER RESOURCES DIVISION
SALEEM, OREGON

EXHIBIT "I"

G-12905
ARLU-DECO.

6-29-93

(15 PAGES)

EAGLE CREST, PHASE II TESTIMONY OF ARLU-DECO ON WATER

Summary

The STATE has an obligation to act with extreme care, when considering whether to approve new water consumptive uses like Eagle Crest Phase II. The statutes and policies which govern ground and surface water management mandate that no action by the STATE result in contamination or excessive reduction of groundwater or surface water. It is these statutory mandates, not political or economic concerns, which must govern this permitting process.

As the applicant for a permit ~~for~~ WATER, Eagle Crest is the party who bears the burden of proof. On any issue where the STATE has any doubts or concerns about compliance with County and/or State law and policy, the Permit must be denied. Only by "defaulting" on the side of denial rather than development can the County carry out its obligations to its current and future citizens.

The information before the Department shows that Phase II of Eagle Crest may result in potential harm to the water resources. At a minimum, the record indicates that additional information is necessary to get an accurate picture of the projected impacts.

RECEIVED

JUN 30 1993

WATER RESOURCES DIVISION
SAND COUNTY

Burden Of Proof Is On Eagle Crest

As the applicant for a license or permit, Eagle Crest bears the burden of proof on all issues. This is a fundamental tentative administrative law.¹ Too often the opponents of a potentially destructive project are told "you didn't prove there would be a problem, so we are going to go ahead and issue a permit." The answer to that is simple. We, the public, don't have to prove anything. It is Eagle Crest who must prove that no harm will occur. The burden is on them, not on the public or the Department.

In Oregon, as in most states, the phrase "burden of proof" has two distinct parts. First, the burden of producing evidence, sometimes called the burden of production. Second, the burden of persuasion.² Judicial decisions from around the nation almost universally agree that the burden of proof

¹ See generally, Am. Jur. 2d., Vol. 82, Zoning and Planning § 308, and C.J.S., Vol. 73A, Administrative Law and Procedures, § 128. See also, Teledyne Wah Chang v. Energy Fac. Siting Council, 298 Or. 240, 248-49, 692 P.2d. 86 (1984). (Since the challenged agency proceeding was review of an application for a license, burden of proving entitlement to the license was properly imposed on the applicant.)

² See Jurgenson v. Union County Court 42 Or App 505, 510, 600 P2d 1241 (1979) (In land use proceedings, burden of proof is on party seeking a change) and Fasano v. Washington County 264 Or. 574, 586, 507 P2d 23 (1973) (The greater the change the greater the burden).

³ See, Cameron Logging v. Jones, 109 Or App. 391, 394, 820 P.2d. 8 (1991) and Hansen v. Oregon-Wash. R & N. Co., 97 Or. 190, 210, 188 P. 963 (1920) ("The phrase 'burden of proof' has two meanings. One, to express the idea that a named litigant must in the end establish a given proposition in order to succeed; the other, to express the idea that at a given stage in a trial it becomes the duty of a certain one of the parties to go forward with the evidence.")

(including both production and persuasion) lies upon the applicant for a license or permit.⁴

Here, Eagle Crest is the applicant. Eagle Crest bears both the burden of producing evidence and the ultimate burden of persuasion throughout this proceeding. This makes perfect sense, since Oregon law is founded on the idea that both the ground and surface waters of the state belong to the people and are held in trust for the people by the state. See, ORS 527.110, ORS 536.310(1) and ORS 537.334(2). It would not make sense to place the burden of proving that a proposed change will not cause harm, on either the people who already own the resource or on the trustees for those people. The "role" of government (in this case the STATE) is to ensure protection of the water resources for current and future generations.⁵ Unless or until Eagle Crest demonstrates with convincing evidence that it meets each and every criteria of state and County law, ANY WATER PERMITS should be denied.

⁴ See, e.g., Johnson v. Moore, 752 SW.2d. 293, 294, (Ark. App. 1988) (burden of proof on applicant for a liquor license); Power Authority of New York State v. Williams, 475 NYS2d. 901, 903 (App. Dept. 3, 1984) (burden on applicant for Clean Water Act § 401 certification); Matter of Stone Creek Channel Improvements, 424 NW2d. 894, 898 (N.D. 1988) (burden on applicant for drainage permit); Holly v. Bates, 81 A.2d. 151, 154 (N.J. Sup. Ct. 1951) (burden on applicant for nursing home license); Schramm v. Physicians Physical Therapists Examining Board, 219 A.2d. 846, 847-848 (D.C. App. 1966) (burden on applicant for a Therapist license); and Caldarone v. Zoning Board of Review, 60 A.2d. 156, 159 (R.I. Sup.Ct. 1948) (burden on zoning permit applicant).

⁵ See, e.g., Fed. of Seafood Harvstrs. v. Fish & Wild. Comm., 291 Or. 451, 457-458, 632 P.2d. 777 (1981) (Applying this analysis to a denial of a hatchery permit by the Oregon Department of Fish & Wildlife).

Moreover, a denial is always essentially temporary. Well drilling, septic systems, construction and property purchases are not. Eagle Crest is free to reapply for a permit any time new information is developed which proves that harm will not occur. If a permit is granted without full, careful and accurate analysis of the potential harmful impacts of this PERMIT, future generations of Deschutes County residents will not have that luxury. The damage will be done.

Applicable Law On Protection of Water Resources

The County has a duty to implement its land use plans in a fashion that will not harm the quality or quantity of the water resources. This obligation arises from many sources. One source is the County land use codes, plans and policies. THE DEPT. MUST BECOME FAMILIAR WITH THESE AS REQUIRED BY OAR 690-11-195(4). Other sources are the Oregon Revised Statutes and the Administrative Rules promulgated by the state agencies charged with management of these public water resources.

A. Applicable State Statutes:

Controlling state law is clear. The STATE may act only if it is certain that the approval will: "protect, maintain, and improve the quality of the waters of state* * *" and "provide for the prevention, abatement, and control of new or existing water pollution." See ORS 468B.015(2) & (4)

(emphasis added). Pollution of any of the waters of this state is not a reasonable or lawful use and is contrary to the public policy of the state of Oregon. See ORS 468B.020(1).

Moreover:

"[T]he goal of the people of the state of Oregon [is] to prevent contamination of Oregon's groundwater resource while striving to conserve and restore this resource and to maintain the high quality of Oregon's high quality resource for present and future uses." See ORS 468B.155.⁶

No action by the DEPT. can lawfully violate these controlling provisions of state law. The DEPT. must cooperate with other branches of the state as well as other states and the federal government to carry out the objectives of these laws. See, ORS 468B.015(5). It is for precisely this reason that ORS 536.220(1)(b) specifies that "a proper utilization and control of the water resources of this state can be achieved only through a coordinated, integrated state water resources policy * * *" (emphasis added)

The DEPT. is bound by these mandates on ground and surface water management. Depletion of groundwater aquifers below sustainable levels, contamination from septic systems and pesticide or fertilizer use, and changes in Deschutes River flows may occur if expansion is allowed. Each of these run afoul of the outlined statutory policies.

⁶ OAR 690-410-010(1) similarly provides "Groundwater overdraft and contamination shall be prevented to avoid health hazardous, environmental damage, and costly correction programs. 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." (emphasis added).

In addition, ORS 536.310(1) specifically requires that "existing rights * * * are to be protected and preserved subject to the principle that all of the waters within this state belong to the public for use by the people for beneficial purposes without waste." Thus, prior to receiving a permit to expand Eagle Crest must demonstrate ~~TO THE DEPT'S~~ satisfaction that all existing water users in the County (particularly, those located near the expansion) will be protected.

This is also consistent with the requirement that "Competitive exploitation of water resources of this state for single-purpose uses is to be discouraged when other feasible uses are in the general public interest." ORS 536.310(5) (emphasis added). An expansion of Eagle Crest would be a defacto allocation of an enormous amount of water to a single-purpose use. In many instances, other feasible uses which are more in the general public interest (such as individual, domestic, agricultural, wildlife, fisheries, or instream recreational uses of this water on the various rivers fed by the aquifer to be drawn upon) could be prohibited by authorization of this expansion, AND ADDITIONAL WATER PERMITS.

Returning briefly to the burden of proof issue, state law mandates that "Statewide programs to identify and characterize groundwater quality shall be conducted." See, ORS 468B.160(3). Given this mandate, ~~THE DEPT.~~ must require Eagle Crest to undertake all additional studies and analysis necessary to demonstrate that the proposed use will not violate

or contravene any of the applicable County and State policies.

The obligations placed on the County, and the lack of confirmed and reliable information on groundwater impacts from this expansion, were highlighted by the recent (10/2/92) letter sent to Deschutes, Jefferson and Crook Counties by the Director of the Oregon Water Resources Department (copy attached). That letter specifically notes that until additional, more comprehensive information on groundwater hydrology has been produced "it is possible that [water use] permit denials will be more common than permit approvals."

The Water Resources letter is dated 10/2/92. Eagle Crest has not, to Arlu-Deco's knowledge, submitted any information quantifying and evaluating the groundwater resource (or the projected impacts on that resource) since September of this year. This predated the Water Resources Department letter. Thus, in making its permit decision the County must take into account that, at present time the agency charged with overseeing management and evaluation of ground and surface water in this state holds the view that groundwater information in Deschutes County is currently inadequate. In light of this, and the coordination mandates of ORS 536.220(1), ORS 468B.015(5) and ORS 468B.160(3), permission to expand and begin Eagle Crest Phase II must be denied at this time. THIS INCLUDES DENIAL OF WATER PERMITS BY THE DEPARTMENT.

B. County Land Use Plans, Policies and Codes

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. In evaluating a proposed expansion of Eagle Crest the County must be consistent with these published goal and objectives. Thus, Eagle Crest must demonstrate and the County^{AND THE DEPT.} must evaluate compliance with the following:

- (1) The need to increase Deschutes river instream flows from Wickiup Reservoir to Lake Billy Chinook;
- (2) Stream flows in the little Deschutes River and all tributaries must be maintained at current levels, so that flows for irrigation, fisheries, wildlife and recreation needs are met; and
- (3) Stream flows below the north canal dam, below the irrigation diversion in Tumalo creek, and below the main irrigation diversions in Squaw Creek must be increased. See River Study p. 13-2 through 6

The DEPT. cannot agree to a PERMIT until Eagle Crest demonstrates that it will not harm groundwater that may provide critical flows for these streams.

Likewise, prior to approval of any expansion plans, detailed findings on consistency and compatibility with each provision of The County plans, policies and codes must be made. In the interest of time Arlu-Deco will not outline all of these provisions. However, we incorporate those provisions by reference and look forward to the detailed analysis of how each piece of evidence in the record bears on each of the applicable provisions of County and State law.

Safety Concerns

The area of the proposed expansion (Cline Falls vicinity) is a known active fault. See Kienle, Hamill & Lite (9/30/83), "Site Description Memorandum #4 - Earthquake and Fault Study of Detroit Lake and Vicinity", U.S. Army Corps. In fact, this fault may be one of the most recently active sites in the state. Id. Arlu-Deco questions whether the seismic design plans and specifications for the expansion meet current safety and earthquake planning codes. Until the applicant presents a complete analysis of this issue expansion should be denied.

Need For Water Curtailment Plans

Guidelines for water curtailment (including low flow water devices) planning and program development are available in the Drought Appendix, to the State Emergency Operations Plan (2/91). Additional guidelines and rules are available from the Water Resources Department. These guidelines contain a basic outline of the types of questions, analysis and mandatory plans

AND STATE
that Eagle Crest must provide, for the County¹ to rationally assess whether water supplies are adequate, whether future health impacts, future resource impacts, and future land use impacts will occur as a result of this proposed expansion.

Hydrology And Contamination Concerns

The County's independent consulting Hydrologist (J. Gonthier) indicates that more data and analysis should be required of Eagle Crest. In addition, in the Appendix to his 10/92 critique Gonthier outlines three pages 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." In light of the statutory and planning mandates under which the County is operating this is significant oversight.

The 1986 Deschutes River Study acknowledges that "there is little information on groundwater quantity, quality, or flow characteristics in the Upper Deschutes River Basin." River study p.3-4. The study also identified the potential emergence of a problem of contamination of groundwater "and ultimately, the surface waters" due to improperly and illegally installed septic systems. This is a significant concern in the Phase II expansion proposal, particularly given the ongoing apparent surface pollution problems at the existing resort. Gonthier did not analyze the Eagle Crest report on

"Contamination Potential." Given the problems identified in the Hydrology Study, a detailed critique of the Contamination report should be completed before any permitting decision is made.

For example, the Report assumes that the natural drainages in the expansion will remain "normally dry". Newton (9/92) p.4. Based on that assumption and the additional supposition that moisture available in the area will remain insufficient to saturate the ground (Id. p.10) the Report concludes that the potential for groundwater contamination is "very low." Unfortunately, this "analysis" overlooks critical facts.

Once Eagle Crest Phase II is in place, natural drainages will be inundated with runoff from constant irrigation of the proposed additional golf course, lawns, gardens and grounds. This same irrigation will result in enormous amounts of moisture, which may well be ample to saturate the ground and cause a downward moving "saturation front" that could contaminate the principle aquifers. Eagle Crest's report fails to address the situation.

In addition, we note that some times it is what a report does not say that is equally as important as what it does say. Here, the Eagle Crest Report does not say contamination will be "prevented" or will not occur, as is required by county code and by state law. Instead the Report concludes that the chance of contamination is "very low." Unfortunately, if this supposition is incorrect the cost of

cleanup is anything but "very low." The County cannot afford to speculate. Only if the County is convinced that no contamination will occur at any time should a permit for expansion be issued.

In closing, it is plain that the analysis submitted to date by Eagle Crest is insufficient to allow the County to rationally determine whether the water resource has the ability to handle the heavy additional draws and whether contamination could result from an expansion of the existing resort. Analysis which assumes that post construction conditions will be the same as pre-construction, tells only half the story. Although it is an important half, it is by no means sufficient to meet Eagle Crest's burden of demonstrating compliance with applicable State and County policy. Under the circumstances we urge denial OF G-12905 AT THIS TIME.

EXHIBIT " "

Oregon

September 14, 1992

The Honorable Dick Maudlin, Chair
Deschutes County Commission
1130 NW Harriman
Bend, OR 97701

G-12905
ARLU-DeCo.
6-29-93

WATER
RESOURCES
DEPARTMENT

The Honorable Daniel Ahern, Chair
Jefferson County Commission
75 SE C St.
Madras, OR 97741

The Honorable Lynn Lundquist, Chair
Crook County Commission
Crook County Courthouse
300 E. Third St.
Prineville, OR 97754

Dear Commissioners:

We are writing to you jointly to bring to your attention a matter of growing concern—the condition of the groundwater resource in central Oregon—and to ask for your help.

Increasingly, the Water Resources Commission and Department are faced with very difficult questions surrounding applications for groundwater use permits in rapidly developing areas. Under state law, the Commission is charged with: assuring an adequate and safe supply of groundwater for human consumption; determining and maintaining stable groundwater levels; and preventing depletion, impairment and waste of groundwater. [ORS 537.525]

The Commission's approval of a request to use groundwater is predicated on these statutory mandates. Historically, when use of the state's groundwater resource was, in relative terms, small, the risk of depleting aquifers through permit issuance was correspondingly low. With Oregon growing at twice the national rate, 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 the Commission's recent experience with applications for groundwater use for destination resorts in central Oregon. To the extent these developments represent demands not unlike that of small cities, the potential impacts on the groundwater resource can be great. In addition, impacts on nearby established users of the



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resource, as well as on surrounding creeks and springs can also be significant. All of these issues were brought to the Commission by concerned citizens in the public interest review process. The issues were not easily resolved. Various interests presented differing, often conflicting, interpretations of project impacts from exercise of the proposed groundwater rights. Ultimately, the Commission made its decisions based on the best available, albeit limited, information. With ever-increasing requests and without more data, however, at some point a reasonable doubt is reached whether increased groundwater use is sustainable. We are very near, if not at, that point in many areas of the state, including parts of central Oregon.

The groundwater information base will never be perfect. However, in many areas it must improve substantially before the Commission can both issue additional permits and meet its obligation to protect the groundwater resource. Through its statewide Groundwater Assessment Program, the Water Resources Department is attempting to establish the extent and capacity of the state's aquifers. Given staff and resource constraints, however, sufficient data may not be available for sound decision-making for some time to come. 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.

* We want to convey to you as clearly as we can that it is no longer safe to assume that obtaining a groundwater use permit is a formality. Without better information, it is possible that permit denials will be more common than permit approvals. Such actions on our part could, of course, have major impacts on local government actions as you seek to implement your comprehensive land use plans. Accordingly, I hope we can build a strong state/local partnership to address our mutual research and planning needs. Some initial ideas on how counties might participate in the process include supporting funding for or cooperating in comprehensive groundwater investigations, requiring additional groundwater analysis and information for certain land use decisions, or phasing development projects contingent upon results from groundwater monitoring. The recently initiated dialogue among Bend, Deschutes County, and the U.S. Geological Survey about a potential groundwater study may offer an especially timely opportunity to combine local, state, and federal resources to generate the information we all need.

We appreciate the interest that you and the citizens you represent have shown in water resources to date. We would like to build on that interest by working with you to move from some of the general concepts in this letter to more specific on-

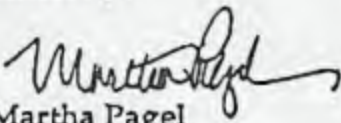
D-2

Commissioners Maudlin, Ahern, Lundquist
September 14, 1992
Page 3

the-ground solutions. The Water Resources Department would welcome the opportunity to meet with you individually, or in a more regional forum, to discuss specific water resource data generation options or water management alternatives.

If you have any questions or suggestions for follow-through, please contact Fred Lissner, manager of the Department's Groundwater and Hydrology Section (378-8455, ext. 204). Thank you for your consideration.

Sincerely,


Martha Pagel
Director

rab:RAB

cc: George J. Read, Planning Director, Deschutes County
Bill Zelenka, Planning Director, Crook County
Chuck McGraw, Planning Director, Jefferson County
Denny Newell, Executive Director, Central Oregon Intergovernmental Council
Bill Blosser, Chair, LCDC
Senator Peter Brockman
Senator Wayne Fawbush
Senator Eugene Timms
Representative Bev Clarno
Representative Mike Nelson
Representative Bob Pickard
Fred Lissner, WRD, Manager, Groundwater and Hydrology Section
Bob Main, WRD, Manager, South Central Region
Rick Bastasch, WRD, Manager, Water Resources Coordination Group

WaterWatch

O F O R E G O N

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

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Page 2

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.

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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

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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

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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

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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."

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Page 7

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

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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,

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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.

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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.

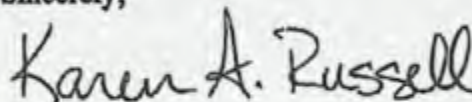
This condition states that in the event of a request to transfer the point of diversion, add a point of diversion, or to change the diversion facility, the amount of water allowed in the transfer, along with "any other right, shall not exceed the capacity of the facility at the time of perfection of 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.

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♦ 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,



Karen A. Russell
Legal Affairs Coordinator

State of Oregon
Water Resources Department

INTEROFFICE MEMORANDUM

Date: 4-9-93

TO: Steve Applegate, File
FROM: Rob Carter, Well Construction Specialist
SUBJECT: Eagle Crest G-12905

I have had an opportunity to discuss the above well construction with Kyle Gorman, the reviewing Hydrogeologist. In his review, he questions the placement of Bentonite below 25 feet and the seal interval in general.

The use of bentonite from 90-100 feet is to seat the casing in the hole and prevent downward movement of surface water past the casing. The placement of bentonite at this level, therefore, would not be considered in violation of our sealing requirements as it is not intended as a surface sealant.

The water producing zone from 608-615 feet is currently under artesian pressure. The static water level is 528 feet. According to OAR 690-210-120, the well must be sealed at least 5 feet into the confining formation above the water bearing zone. The confining zone, according to Kyle, occur from 442-608 (hard basalt/andesite). I would concur with this determination.

According to the well report received by the Department in Oct. of 1991, seal extends to 50 feet. According to Kyle, a amended log has been submitted by Staco which places the seal to 100 feet.

To repair the well, the seal should be extended to a minimum of 447 feet. This could be accomplished in a number of ways including, but not limited to:

1. Utilization of shale traps and 6" inner casing grouted to the required depth.
2. Placement of a packer to the required depth.
3. Over-ream and remove existing casing, under-ream 10" hole at required depth, and replace casing. Place surface and bottom seal.

I will contact Chuck Stadeli and inform him of the needed repair. I will keep you comprised of events.

Thanks,

Rob

PERMIT CNDTNS

language re interference so wtr rt will
at "interference"

Well 6"
SWSE 15
962N 823E
5 X 1500 15
15512E

EAGLE CREST

land use obj w/w - Rick B. will get me
written authorization land owners
sweeping approp ground & studies
to protect resources

Land use Goal 5
prop rts
WA

PERMIT CNDTNS

language re interference so wtr rt will
elim. "substantial" interference

EAGLE CREST

land use obj WA - Rick B. will get me
land use ~~study~~

written authorization land owners

sweeping approp groundw^r 5 studies
to protect resources

Land use Goal 5
prop rto
WA

STEVE

HERE IS A PRELIMINARY T.R. & COVER LETTER

1. BASED ON 900 FAMILIES & OUR RULE OF THUMB 0.03 CFS 6-10 FAMILIES
FEE REFUND OF \$5
2. 'C' DATE IS 2002. WILL THAT DATE HAVE TO BE CHANGED? TO 1997?
3. NO EASEMENTS TO WELL SITES.
4. NO LAND APPROVAL. COUNTY SAID CONDITIONAL USE PERMIT & SITE PLAN REVIEW NEEDED
5. LET'S JUST GO WITH WHAT WE HAVE.

Tom

File G12905-

4/7/93

I received this file for S. Brown.

The major concerns base land use and comments from county and could a TR be completed.

Based upon review of Div 11 Brown & I concurred that a TR could be completed, if a permit condition was added to TR about noise until land use approvals were made; and TR should address this land use issue. TR should identify that land use is not complete, but all indications in file lead us to believe that land use will be approved because the pit is existing, all governmental groups think this beneficial, and county has not indicated a no will result from conditional use.

When TR is complete let Park know. file
Need response to Rep Clarno —

MEMORANDUM

WATER
RESOURCES
DEPARTMENT

To: File G-12905

Date: February 19, 1993

From: Steve Brown

Subject: Status of file

I instructed Tom Walker to submit current land use information regarding the approval of the project by Deschutes County.

Until such time, no action to complete the technical review should be made.

1019



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



Creative Solutions ... Superior Service

- Planning
- Engineering
- Surveying
- Landscape Architecture

- Environmental Services

Date: 2-22-93

Project Number: 526-01-01

Project Name: EAGLE RIDGE DEVELOPMENT CORP.

Regarding: WATER RIGHT APPROPRIATION

APPLICATION - OWRD FILE # G-12905

We Are Sending:

These Are Transmitted:

Copied To: *Spencer, David*

☒ Attached

X For Your Info/File

BILL LYCHE

☒ Facsimile☒ As Requested

6 Number Of Pages Including Cover

X For Review And Comment

☐[illegible]

Comments

Signed

Tom Walker

Description of Water Use

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

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

Applicant Name: EAGLE RIDGE DEVELOPMENT CORPORATIONAddress: P.O. BOX 1215
REDMOND, OREGON 97756Phone: (503) 923-0807

FEB 24 1991

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

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☒ Residential (# units, single or multi-family, # lots if partition or subdivision): Approximately 900
equivalent dwelling units, including 450 single-family, 150 multi-family, and 250 rooms.
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.): _____
- ☐ Fish and Wildlife (pond, hatchery, etc.): _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☐ Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	<u>4.01</u> Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
☐ Reservoir or pond	
☒ Ground Water	

development including an explanation of when facilities will be provided and how they will be secured if not completed prior to closure of sale of individual lots or units;

* i. An explanation of how the destination resort has been sited or designed to avoid or minimize adverse effects or conflicts on adjacent lands. The application shall identify the surrounding uses and potential conflicts between the destination resort and adjacent uses within 660 feet of the boundaries of the parcel or parcels upon which the resort is to be developed. The application shall explain how any proposed buffer area will avoid or minimize adverse effects or conflicts;

j. A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services including fire and police protection;

k. A study prepared by a hydrologist, engineering geologist or similar professional certified in the State of Oregon describing:

1. An estimate of water demands for the destination resort at maximum buildout, including a breakdown of estimated demand by category of consumption, including but not limited to, residential, commercial, golf courses and irrigated common areas;

2. Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area;

* 3. A water conservation plan including an analysis of available measures which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conserva-

tion plan shall include a waste water disposal plan utilizing beneficial use of reclaimed water to the maximum extent practicable.

For the purposes of this section, beneficial uses shall include, but are not limited to:

X i. Irrigation of golf courses and greenways;

X ii. Establishment of artificial wetlands for wildlife habitation.

l. An erosion control plan for all disturbed land, as required by ORS Chapter 468. This plan shall include storm and melt-water erosion control to be implemented during all phases of construction and permanent facilities or practices for the continuing treatment of these waters. This plan shall also explain how the water shall be used for beneficial use or why it cannot be used as such;

m. A description of proposed sewage disposal methods;

n. Wildfire prevention, control and evacuation plans;

o. A description of interim development including temporary structures related to sales and development;

p. Plans for owners' associations and related transition of responsibilities and transfer of property;

q. A description of the methods of ensuring that all facilities and common areas within each phase will be established and will be maintained in perpetuity;

r. A survey of housing availability for employees based upon income level and commuting distance;

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

1. An analysis which addresses the economic viability of the proposed development;

2. Fiscal impacts of the project, including changes in employment, increased tax revenue, demands for new or increased levels of public services, housing for employees and

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.

c. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.

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 § 1. 1992)

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.

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.

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.

L. The waste water disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's 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.

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

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.

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

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

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

Applicant's Name: EAGLE RIDGE DEVELOPMENT CORPORATION
Address: P.O. BOX 1215
City: REDMOND State: OR Zip: 97756 Day Phone: (503) 923-0807

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

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
TL 1500	T15S R12E EFU 40	X	X	DOMESTIC
TL 100 & 101	T15S R12E SECTION 22 EFU 40	X	X	DOMESTIC
TL 1500	T15S R12E SECTION 23B EFU 40	X	X	DOMESTIC

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

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

For Local Government Use Only

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

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

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

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

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily
Conditional Use	Ch. 18.113 of Title 18			✓
Subdivision Approval	Title 17 of D.C.C.			✓

(over)

Receipt for Request for Land Use Information .

WRD Applicant Name: _____

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

City or County: _____

Staff Contact: _____ Phone: _____

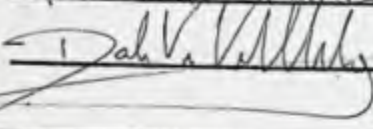
Signature: _____ Date of Information Request: _____

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: Dale Van Valkenburg

Title: Associate Planner

Signature: 

Date: 2-22-93
Phone: 388-6575

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

Additional Comments:

Applicant has applied for all relevant land use
applications. Review process is currently stalled
due to circumstances beyond applicants
control.

See specificall section 18.113.050(B)(K) attached.

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.



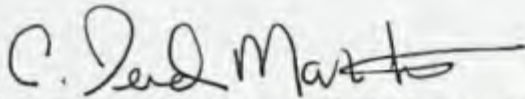
3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Reed Marbut", with a long horizontal flourish extending to the right.

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Clifford T. Thomas
3201 S.W. 73rd
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

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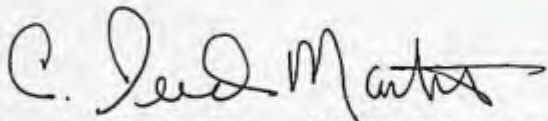
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A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
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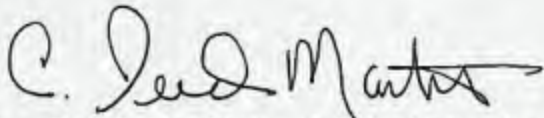
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A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
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Marion Millard;
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Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

March 29, 1994

WATER
RESOURCES
DEPARTMENT

Jan Twining, Executive Director
ARLU DeCo
c/o Sandra Sands
P.O. Box 1508
Sisters, OR 97759

Re: Application File No. G 12905, Eagle Ridge Development Corp.

Dear Ms. Twining:

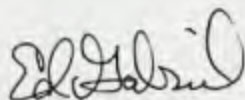
Under separate cover I have enclosed the Staff Report to the Water Resources Commission for Application File No. G 12905 submitted by Eagle Ridge Development Corp. I have also enclosed a copy of the Commission's agenda.

The protest which you submitted was received timely and in the proper form with the proper fee. All applications which are protested are referred to the Water Resources Commission.

The Commission meeting will be held Friday, April 8, 1994, beginning at 8:30 a.m. in the City Council Chambers, Roseburg City Hall, Roseburg, OR,

If you have any questions, please call.

Sincerely,



Ed Gabriel
Senior Water Rights Examiner
Water Rights and Adjudications Division



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

March 29, 1994

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

WATER
RESOURCES
DEPARTMENT

Re: Application File No. G 12905, Eagle Ridge Development Corp.

Dear Ms. Sands:

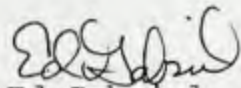
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If you have any questions, please call.

Sincerely,



Ed Gabriel
Senior Water Rights Examiner
Water Rights and Adjudications Division



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

RECEIVED

MAY 17 1994

RESOLUTION OF THE BOARD OF DIRECTORS OF WATER RESOURCES DEPT.
EAGLE CREST MASTER ASSOCIATION SALEM, OREGON

The undersigned, constituting a majority of the duly elected and qualified directors of the Eagle Crest Master Association, an Oregon nonprofit corporation (the "Association") do hereby adopt the following resolution:

WHEREAS, the Association owns and operates two wells for the delivery of water in Phase I of the Eagle Crest resort, also known as Permit Nos. G-10530 and G-10957 (the "Eagle Crest I Wells"); and

WHEREAS, Eagle Ridge Partners Ltd. is developing another well that will provide water to Phase II of the Eagle Crest resort as well as a backup supply of water for Phase I (the "Eagle Crest II Well"); and

WHEREAS, as a condition of approval of a water right permit for the Eagle Crest II Well, the Oregon Water Resources Commission has requested that the proposed conditions for that well be incorporated into the water right permits for the Eagle Crest I Wells;

NOW THEREFORE, be it resolved that the Association hereby consents to an amendment, *as requested by the Oregon Water Resources Commission,* to the water right permits for the Eagle Crest I wells in order to conform their terms and conditions to those proposed for the Eagle Crest II well.

The Secretary of the Association is hereby directed to file this written consent and the resolution adopted hereby with the Minutes of the proceedings of the Board of Directors, and to deliver a copy of this written consent to the Oregon Water Resources Department.

Dated: May 14, 1994

Tom Thurnell
Member of the Board

Jewel E. A. Hughes
Member of the Board

J. D. Dwyer
Member of the Board

Sally B. Brown
Member of the Board

William D. Lyden
Member of the Board

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. ANUTA*

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

**PLEASE DELIVER THE FOLLOWING MATERIAL
AS SOON AS POSSIBLE**

Transmission Date: 4/26/94

TO: De Reed Marbent

FAX No.: 1-503-378-8130

FROM: KARL G. ANUTA

FAX No.: (503) 228-6551

NUMBER OF PAGES, INCLUDING THIS PAGE: 3

MESSAGE:

If there are any problems receiving this transmission, please telephone us immediately at (503) 228-6469.

- ☐ The original is being mailed.
- ☐ The original is not being mailed.
- ☐ The original is available upon request.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS. THANK YOU.

LARRY N. SOKOL & ASSOCIATES, P.C.
LAWYERS

LARRY N. SOKOL
KARL G. AMUTA*

STROWBRIDGE BUILDING
735 S.W. FIRST AVENUE
PORTLAND, OREGON 97204
(503) 228-6469
FAX (503) 228-6551

*ALSO ADMITTED IN WASHINGTON

April 26, 1994

VIA FAX & REGULAR MAIL

Steve Sanders
Assistant Attorney General
Counsel to the
Oregon Water Resources Commission
100 Justice Building
Salem, OR 97310

RE: Eagle Crest/Eagle Ridge Water Use Permit

Dear Mr. Sanders:

As you know, I represent ARLU-DeCo and FCB in the Eagle Crest water permit proceedings. As I indicated, my clients are very concerned about certain representations made to the Deschutes County Commissioners about the water use permit decision of the Water Resources Commission (WRC).

Thank you for verifying the Commission's legal position on this matter. As I understand the WRC position:

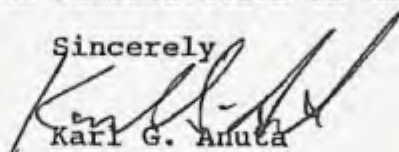
1. Eagle Crest does not currently have a water use permit for Phase II domestic use;
2. The Commission decided on 4/20/94 that certain special conditions needed to be placed on all Eagle Crest water use permits, both Phase I and II;
3. The WRC decision on 4/20/94 was that if Eagle Crest submits written authorization from the Phase I Homeowners Association, agreeing that all Phase I water use permits will be reopened and conditioned the same as Phase II permits, then the agency will issue Eagle Crest a Phase II domestic use permit. Until such a written verification is received, Eagle Crest does not have a water use permit for the expansion;
4. If no written permission is received, the Eagle Crest issue will be back before the Commission for a decision on whether to issue, deny or send to contested case this application; and

Steve Sanders
Page 2
April 26, 1994

5. The Commission did not make a finding that Eagle Crest's Phase II domestic water use permit would have "no impact" on the Deschutes River. The Commission only decided that the Phase II domestic use permit would not create "substantial" short term interference (as defined by Division 9 of the agency rules) between ground and surface water. Under Division 9, only interference that occurs within 25 days of pumping is considered. Long term cumulative impacts are not considered under Division 9.

Thank you again for your clarification on these issues.

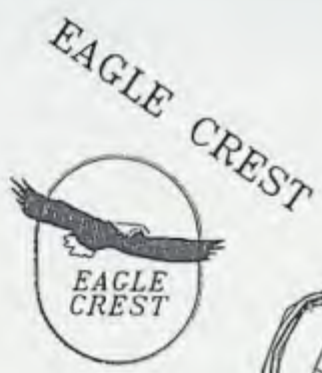
Sincerely



Karl G. Anuta

KGA

cc: Clients, via FAX & mail
R. Marbut, WRD, via FAX
R. Whitman, Eagle Crest, via mail
Dale. Van Valkenburg, Deschutes County Planning, via FAX
Deschutes County Commissioners,
for entry in Land Use appeal record, via FAX
S. Burchfield, ODFW, via FAX
K. Russell, WaterWatch, via FAX



EAGLE CREST II PRELIMINARY MASTER PLAN

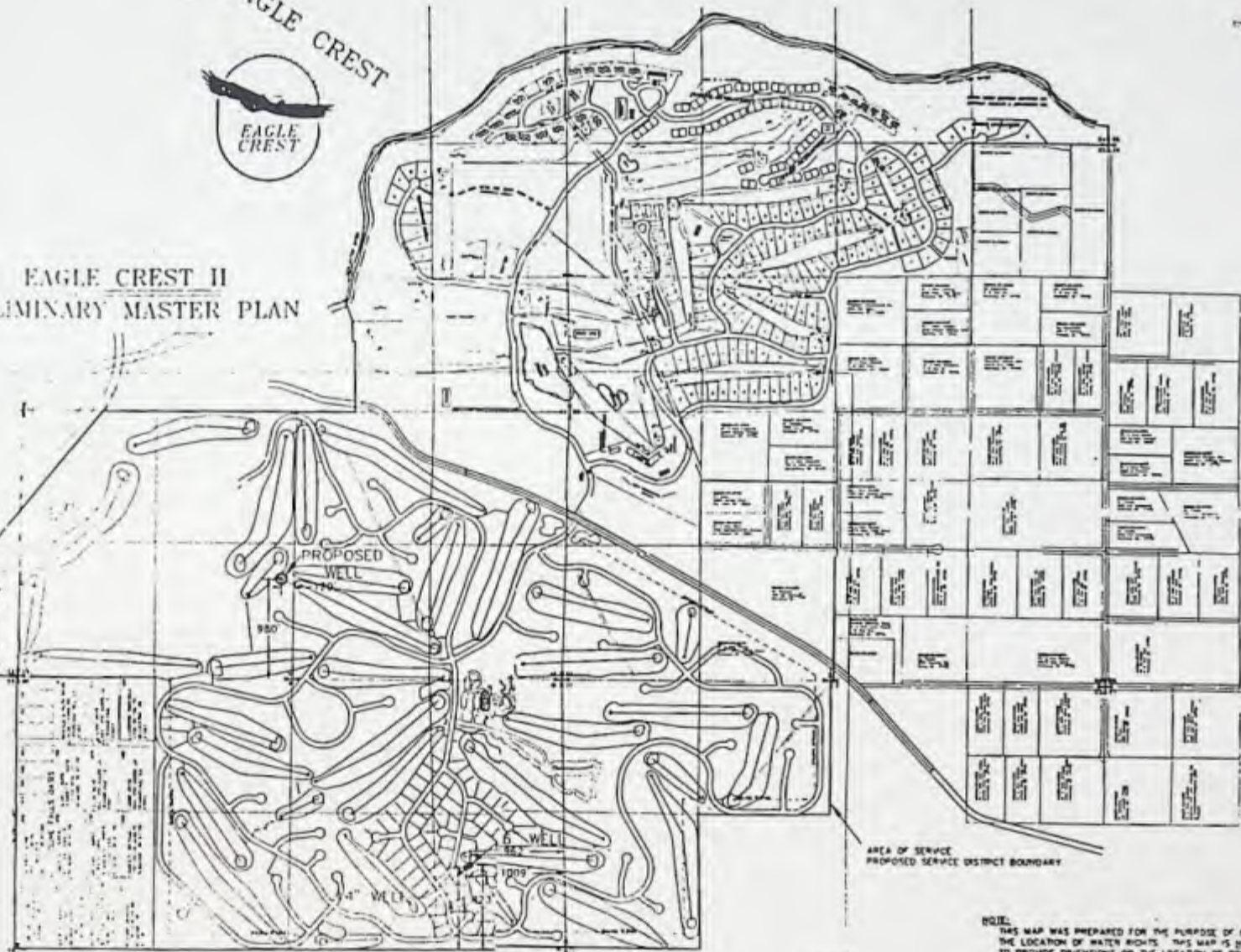
CLINE FALLS OASIS NO. 2

1001	1002	1003	1004	1005	1006	1007	1008	1009	1010	1011	1012	1013	1014	1015	1016	1017	1018	1019	1020	1021	1022	1023	1024	1025	1026	1027	1028	1029	1030	1031	1032	1033	1034	1035	1036	1037	1038	1039	1040	1041	1042	1043	1044	1045	1046	1047	1048	1049	1050	1051	1052	1053	1054	1055	1056	1057	1058	1059	1060	1061	1062	1063	1064	1065	1066	1067	1068	1069	1070	1071	1072	1073	1074	1075	1076	1077	1078	1079	1080	1081	1082	1083	1084	1085	1086	1087	1088	1089	1090	1091	1092	1093	1094	1095	1096	1097	1098	1099	1100	1101	1102	1103	1104	1105	1106	1107	1108	1109	1110	1111	1112	1113	1114	1115	1116	1117	1118	1119	1120	1121	1122	1123	1124	1125	1126	1127	1128	1129	1130	1131	1132	1133	1134	1135	1136	1137	1138	1139	1140	1141	1142	1143	1144	1145	1146	1147	1148	1149	1150	1151	1152	1153	1154	1155	1156	1157	1158	1159	1160	1161	1162	1163	1164	1165	1166	1167	1168	1169	1170	1171	1172	1173	1174	1175	1176	1177	1178	1179	1180	1181	1182	1183	1184	1185	1186	1187	1188	1189	1190	1191	1192	1193	1194	1195	1196	1197	1198	1199	1200	1201	1202	1203	1204	1205	1206	1207	1208	1209	1210	1211	1212	1213	1214	1215	1216	1217	1218	1219	1220	1221	1222	1223	1224	1225	1226	1227	1228	1229	1230	1231	1232	1233	1234	1235	1236	1237	1238	1239	1240	1241	1242	1243	1244	1245	1246	1247	1248	1249	1250	1251	1252	1253	1254	1255	1256	1257	1258	1259	1260	1261	1262	1263	1264	1265	1266	1267	1268	1269	1270	1271	1272	1273	1274	1275	1276	1277	1278	1279	1280	1281	1282	1283	1284	1285	1286	1287	1288	1289	1290	1291	1292	1293	1294	1295	1296	1297	1298	1299	1300	1301	1302	1303	1304	1305	1306	1307	1308	1309	1310	1311	1312	1313	1314	1315	1316	1317	1318	1319	1320	1321	1322	1323	1324	1325	1326	1327	1328	1329	1330	1331	1332	1333	1334	1335	1336	1337	1338	1339	1340	1341	1342	1343	1344	1345	1346	1347	1348	1349	1350	1351	1352	1353	1354	1355	1356	1357	1358	1359	1360	1361	1362	1363	1364	1365	1366	1367	1368	1369	1370	1371	1372	1373	1374	1375	1376	1377	1378	1379	1380	1381	1382	1383	1384	1385	1386	1387	1388	1389	1390	1391	1392	1393	1394	1395	1396	1397	1398	1399	1400	1401	1402	1403	1404	1405	1406	1407	1408	1409	1410	1411	1412	1413	1414	1415	1416	1417	1418	1419	1420	1421	1422	1423	1424	1425	1426	1427	1428	1429	1430	1431	1432	1433	1434	1435	1436	1437	1438	1439	1440	1441	1442	1443	1444	1445	1446	1447	1448	1449	1450	1451	1452	1453	1454	1455	1456	1457	1458	1459	1460	1461	1462	1463	1464	1465	1466	1467	1468	1469	1470	1471	1472	1473	1474	1475	1476	1477	1478	1479	1480	1481	1482	1483	1484	1485	1486	1487	1488	1489	1490	1491	1492	1493	1494	1495	1496	1497	1498	1499	1500	1501	1502	1503	1504	1505	1506	1507	1508	1509	1510	1511	1512	1513	1514	1515	1516	1517	1518	1519	1520	1521	1522	1523	1524	1525	1526	1527	1528	1529	1530	1531	1532	1533	1534	1535	1536	1537	1538	1539	1540	1541	1542	1543	1544	1545	1546	1547	1548	1549	1550	1551	1552	1553	1554	1555	1556	1557	1558	1559	1560	1561	1562	1563	1564	1565	1566	1567	1568	1569	1570	1571	1572	1573	1574	1575	1576	1577	1578	1579	1580	1581	1582	1583	1584	1585	1586	1587	1588	1589	1590	1591	1592	1593	1594	1595	1596	1597	1598	1599	1600	1601	1602	1603	1604	1605	1606	1607	1608	1609	1610	1611	1612	1613	1614	1615	1616	1617	1618	1619	1620	1621	1622	1623	1624	1625	1626	1627	1628	1629	1630	1631	1632	1633	1634	1635	1636	1637	1638	1639	1640	1641	1642	1643	1644	1645	1646	1647	1648	1649	1650	1651	1652	1653	1654	1655	1656	1657	1658	1659	1660	1661	1662	1663	1664	1665	1666	1667	1668	1669	1670	1671	1672	1673	1674	1675	1676	1677	1678	1679	1680	1681	1682	1683	1684	1685	1686	1687	1688	1689	1690	1691	1692	1693	1694	1695	1696	1697	1698	1699	1700	1701	1702	1703	1704	1705	1706	1707	1708	1709	1710	1711	1712	1713	1714	1715	1716	1717	1718	1719	1720	1721	1722	1723	1724	1725	1726	1727	1728	1729	1730	1731	1732	1733	1734	1735	1736	1737	1738	1739	1740	1741	1742	1743	1744	1745	1746	1747	1748	1749	1750	1751	1752	1753	1754	1755	1756	1757	1758	1759	1760	1761	1762	1763	1764	1765	1766	1767	1768	1769	1770	1771	1772	1773	1774	1775	1776	1777	1778	1779	1780	1781	1782	1783	1784	1785	1786	1787	1788	1789	1790	1791	1792	1793	1794	1795	1796	1797	1798	1799	1800	1801	1802	1803	1804	1805	1806	1807	1808	1809	1810	1811	1812	1813	1814	1815	1816	1817	1818	1819	1820	1821	1822	1823	1824	1825	1826	1827	1828	1829	1830	1831	1832	1833	1834	1835	1836	1837	1838	1839	1840	1841	1842	1843	1844	1845	1846	1847	1848	1849	1850	1851	1852	1853	1854	1855	1856	1857	1858	1859	1860	1861	1862	1863	1864	1865	1866	1867	1868	1869	1870	1871	1872	1873	1874	1875	1876	1877	1878	1879	1880	1881	1882	1883	1884	1885	1886	1887	1888	1889	1890	1891	1892	1893	1894	1895	1896	1897	1898	1899	1900	1901	1902	1903	1904	1905	1906	1907	1908	1909	1910	1911	1912	1913	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934	1935	1936	1937	1938	1939	1940	1941	1942	1943	1944	1945	1946	1947	1948	1949	1950	1951	1952	1953	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338

EAGLE CREST



EAGLE CREST II
PRELIMINARY MASTER PLAN



AREA OF SERVICE
PROPOSED SERVICE DISTRICT BOUNDARY

THIS MAP WAS PREPARED FOR THE PURPOSE OF ILLUSTRATING THE LOCATION OF WATER RIGHTS. THIS MAP IS NOT TO PROVIDE DIMENSIONS OR THE LOCATION OF PRIVATE OWNERSHIP LINES.

The 6th



Application No.

B-12905

State of Oregon

WATER RESOURCES DEPARTMENT

Application for a Permit to Appropriate Ground Water

Applicant(s) Eagle Ridge Development Corporation

(Please print or type - use dark ink)

Mailing Address: P.O. Box 1215Redmond, Oregon 97756(503)923-0807

City

State

Zip

Daytime Phone No.

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

1. **THE DEVELOPMENT** (number of wells, tile lines, infiltration galleries, etc.): The development is expected to include the expansion of use for two existing wells and one proposed well.

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

Distance from development to stream: 2,000 feet minimum

Elevation difference between streambed and development: + 300 feet

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

Diameter of well: Existing Well #2 and Proposed Well #3: 17"
Existing Well #1: 8" Depth in feet: 800 feet

Type and size of well casing: 14" casing/6" casing No. of feet: 800 feet

Estimated depth to water: 520 feet

Type of access port or measuring device: Air tube and standard casing vent.

Wells to be drilled by: Staco Well Services, Inc.

Address: 220 Academy Street Mt. Angel, Oregon 97362

If the water well is flowing artesian, describe your water control and conservation works: Based upon completion of wells on this property and review of well logs in the vicinity, artesian flow is not expected.

2. **TOTAL AMOUNT OF WATER** to be applied to beneficial use: 4.01 cubic feet per second, OR 1,800 gallons per minute. If water is to be used from more than one ground water source, give the quantity of water from each: Existing well number one: .45 cfs, Existing well number two: 1.78 cfs, and proposed well number three: 1.78 cfs.

3. **INTENDED USE(s) OF WATER:** Quasi-Municipal

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

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

If for **MUNICIPAL OR QUASI-MUNICIPAL** use, state the present population to be served, and an estimate of the future requirements; (List population projections, water needs, anticipated areas to be provided water.) The proposed domestic water supply system will serve an estimated 900 dwelling units in the proposed expansion of the Eagle Crest Resort and 42 dwellings in the existing Cline Falls Oasis subdivision, provide a reliable backup supply for the + 420 dwelling units at the existing Eagle Crest Resort, and serve recreation, commercial landscape irrigation, fire protection, and construction uses.

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

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

Irrigation _____

Other (describe) _____

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

The system is ultimately expected to include two 250 HP line shaft turbine well pumps, one 50 HP submersible well pump, a + 300,000 gallon storage reservoir, approximately 50,000 lineal feet of 6", 8", 10", and 12" distribution main, and the associated valves, hydrants, and appurtenances.

5. **PROJECT SCHEDULE:** (List month and year)

Proposed date construction work will begin April, 1992

Proposed date construction work will be completed October, 1997

Proposed date water use will be completed October, 2002

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

6. a) In the event any deficiencies are noted involving the application map enclosed herein, please return the map with instructions for correction to (check one):

Applicant X CWRE Other (Identify in REMARKS section)

- b) In the event any deficiencies are noted involving the application, please return the application with instructions for correction to (check one):

Applicant X CWRE Other (Identify in REMARKS section)

7. Are all lands involved (including the proposed diversion site, place of use, and access for conveying the water) under your ownership? NO. If not, list in the REMARKS section below, or on an attached sheet, the names and mailing addresses of the legal owners of all property involved in the proposed development.

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

REMARKS: _____

Please reference the attached application map for a listing of all land owners and their mailing address.

NOTE: The permit, when issued, is for the beneficial use of water without waste. By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan. It is possible the land use you propose may not be allowed if it is not in keeping with the goals and acknowledged plan. Your city or county planning agency can advise you about the land-use plan in your area.

William D. Lyche
Signature of Applicant

Signature of Applicant

April 28, 1992
Date

Date _____

Signature of Co-Applicant, if any

Date _____

FOR WATER RESOURCES DEPARTMENT USE ONLY

Dear Applicant:

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

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

_____, 19____.

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

Water Resources Director

By: _____

This instrument was first received in the office of the Water Resources Director at Salem, Oregon, on the 4th day of May, 1992, at 2:00 o'clock, PM.

APPLICATION NO: _____

TO: Water Rights Section

12-3, 1992

FROM: Groundwater/Hydrology Section K. Gorman
Reviewer's N

ATTACHMENT 4

SUBJECT: Application G- 12905

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) 4G;
 - 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 4G is suggested so that the characteristics of the resource can be monitored. The proposed well in SW 1/4 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 to 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
 - b. ☐ was not
 - c. ☐ I don't know if it met standards at the time of construction.
- constructed according to the standards in effect at the time of original construction or most recent modification.

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.

(Signature) _____

2/17, 1992.

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

(Signature) _____

_____, 1992.

(WRFORM3\92)

WATER
RESOURCES
DEPARTMENT

April 19, 1993

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

REFERENCE FILE: G-12905

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

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

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

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

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

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

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

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

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

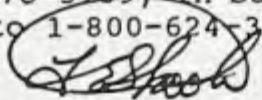
All evidence and objections must be received by our Salem office no later than 5:00 p.m. on or before JUNE 30, 1993, or the Department may presume there is no opposition to any of the analyses set out in the technical review report. Evidence and objections must be addressed and delivered to: Oregon Water Resources Department, Water Rights Section, 3850 Portland Road, Northeast, Salem, Oregon 97310.

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

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

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

Sincerely,



THOMAS E. SHOOK

Enclosures

CC: WATERWATCH OF OREGON
WATERMASTER, DISTRICT 5
W&H PACIFIC
BALL, JANIK, AND NOVAK
REPRESENTATIVE CLARNO

Report Date: APRIL 19, 1993

OREGON WATER RESOURCES DEPARTMENT

REPORT OF TECHNICAL REVIEW

FOR WATER USE PERMIT

OBJECTIONS TO THE PROPOSED WATER USE AS DESCRIBED BELOW MUST BE RECEIVED IN WRITING BY THE WATER RESOURCES DEPARTMENT, 3850 PORTLAND ROAD

N.E., SALEM, OREGON, 97310, ON OR BEFORE 5 P.M., JUNE 30, 1993.

1. APPLICATION FILE NUMBER - G-12905

2. MINIMUM APPLICATION INFORMATION

Applicant name/address/county/phone:

EAGLE RIDGE DEVELOPMENT CORPORATION
PO BOX 1215
REDMOND, OR 97756
DESCHUTES Co. 503-923-0807

Date application received for filing and/or tentative date of priority: 5/ 4/1992

SOURCE: THREE WELLS WITHIN THE DESCHUTES RIVER BASIN

Purpose and/or use: GROUP DOMESTIC FOR 900 FAMILIES INCLUDING THE IRRIGATION OF LAWN AND NONCOMMERCIAL GARDEN OF NOT TO EXCEED 1/2 ACRE PER UNIT

Flow: 4.01 CUBIC FOOT PER SECOND (CFS)

Point of Appropriation Location:

T 15 S, R 12 E, SEC. 14, SW 1/4 SW 1/4, SEC. 15, SW 1/4 SE 1/4

Place of use:

E 1/2 SW 1/4
SE 1/4
SECTION 10
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
SE 1/4 SE 1/4
SECTION 22 ?
ALL -
SECTION 23
W 1/2 W 1/2
SECTION 24
NW 1/4 NE 1/4
N 1/2 NW 1/4
SECTION 26
NE 1/4 NE 1/4
SECTION 27

T 15 S, R 12 E, W.M.

GROUNDWATER AVAILABILITY

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

Pursuant to OAR 690-09-040, the proposed groundwater withdrawal will not have the potential to cause substantial interference with surface water.

In addition, the Groundwater/Hydrology Section has reported the water is likely to be available to supply the proposed use.

CONFLICTS WITH OTHER WATER RIGHTS:

There are existing rights from this point of appropriation. See permit conditions.

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

REPORT CONCLUSIONS:

Water in the amount of 3 CFS is likely available for 12 months of the 12 months normal period of use. Therefore, the Director finds that water is available in sufficient amount and during periods which will reasonably support the proposed use.

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

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

PROPOSED PERMIT CONDITIONS
Application: G-12905

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

1. Use of water under this permit is subject to all prior rights.
2. Period of allowed use: YEAR ROUND
3. Rate of use: 3 CFS
4. A regulating device shall be installed pursuant to ORS 540-310.
5. A measuring device, installation and reporting are required pursuant to ORS 540-435.
6. The PERMIT HOLDER shall obtain a static water-level measurement for each well during MARCH of each year and report the measurement to the Department within thirty days. The measurement shall be made by a certified water-rights examiner, registered professional geologist, or professional engineer. Water levels shall be reported as depth-to-water below ground level and shall be accompanied by supporting calculations. If a well listed on this permit displays a total static water-level decline of 25 or more feet over any period of years, as compared to the reference level, then the PERMIT HOLDER shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s). Such action shall be taken until the water level recovers to above the 25-foot decline level or until the Department determines, based on the PERMIT HOLDER'S or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The reference level for water-level declines shall be the second annual measurement taken after water use begins under the terms of this permit. The PERMIT HOLDER shall in no instance allow excessive decline to occur within the aquifer as a result of use under this permit.

7. Water use development requirements:
 - A) Begin construction by (one year from issuance of permit).
 - B) Complete construction by October 1, 1995.
 - C) Completely apply the water to beneficial use by October 1, 1996.
8. Failure to comply with any of the provisions of the permit may result in action including, but not limited to, restrictions on the use, penalties, or cancellation of the permit.
9. The permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.
10. The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.
11. The well shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times. When required by the department, the permittee shall install and maintain a weir, meter, or other suitable measuring device, and shall keep a complete record of the amount of ground water withdrawn. The use of water shall be limited when it interferes with any prior surface or ground water rights.
12. Pre-application discussions between Deschutes County officials and the applicant suggest that land use approval will be obtained. No water may be appropriated under the terms of this permit until the a proper land use statement has been filed with the Water Resources Department.
13. Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

For existing rights on point of appropriation:

14. In the event of a request for a change in point of appropriation, an additional point of appropriation or alteration of the appropriation facility associated with this authorized diversion, the quantity of water allowed herein, together with any other right, shall not exceed the capacity of the facility at the time of perfection of this right.

For existing rights on place of use:

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

C.T. Thomas
3201 SW 73rd Street
Redmond, Oregon 97756-9232

WATER RESOURCES DEPARTMENT
STATE OF OREGON
REFERENCE FILE G-12905

REC-102

JUN 21 1993

Eagle Ridge Development Corp.

WATER RESOURCES DEPT.
SALEM, OREGON

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

Clifford T. Thomas

3201 SW 73rd

REDMOND

FAX TRANSMISSION

DATE: 6-29-93 TIME:

PAGES:

2

TO: Water Resources Dept

FROM: Marion Miland PHONE:

LOCATION:

LOCATION: MARATHON BUSINESS MACHINES, INC.

FAX#:

FAX#: (503) 548-5967

MESSAGE:

PHONE#: (503) 548-5248

FAX 503-378-P130

6-28-93

P.1

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

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

Dear Sir.

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

TAX LOT 200 BEN JOHANEK

201 JACK BAKER

202 PAT MCCREARY

300 BEING SOLD TO NEW OWNER

201 AND 202

202 TAT McCREARY

300 BEING SOLD TO NEW OWNER

301 DAN DETERS

302 HARRY BRIDGES

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

P2

Eagle Creek is up to now.

Section 23 is ~~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 Willard
3201 S.W. 73rd St
Redmond, Or. 97756

RECEIVED

JUL - 6 1993

WATER RESOURCES DEPT.
SALEM, OREGON

By FAX 378-8130 and Regular Mail

June 30, 1993

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

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

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

♦ The Technical Report is Defective.

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

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

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

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

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

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

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

The 1984 Deschutes Basin Plan states:

● **General Findings:**

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

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

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

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

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

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

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

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

There is inadequate streamflow for fishery requirements. Finding 20.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5. This application was processed out of order.

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

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

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

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

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

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

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

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

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

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

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

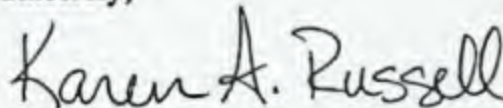
7. **Proposed condition #14 does not protect the public interest because it allows the transfer of amounts above actual permit requirements.**

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

◆ Conclusion

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

Sincerely,

A handwritten signature in cursive script that reads "Karen A. Russell". The signature is written in dark ink and is positioned above the printed name and title.

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 bordering Eagle Crest, we are understandably concerned about the effects the Eagle Crest proposed water request will have on the groundwater source, as well as on surface water quantity and quality.

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

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

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

Deschutes County received, and rightly so, drought status. We request protection of our ground water and surface waters in accordance with 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 1/5/92

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

Testimony presented re: HD-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 (J)
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 Pajutee
Dorothy Schoonmaker
Sandra Sands
Jen Twining, Exec. Dir.

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

The Alliance for Responsible Land Use in Deschutes County

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

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

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

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

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

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

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

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

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

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

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

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

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

I. The Technical Report fails to respond to the requirement

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

J. COMMENT ON PROPOSED PERMIT CONDITIONS:

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

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

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

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

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

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

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

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

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

THE PROPOSED USE IS NOT IN THE PUBLIC INTEREST

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

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

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

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

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

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

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

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

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

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

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

*WATER QUANTITY - See EXHIBITS H AND I

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

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

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

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

G. THE PROPOSED USE IS NOT COMPATIBLE WITH THE OTHER NATURAL RESOURCES WHICH ARE PRESENT IN THE DESCHUTES BASIN [OAR 690-11-195(4)(G)(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

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

Clifford T. Thomas
3201 S.W. 73rd
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13th 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.



3850 Portland Rd N1
Salem, OR 97310
(503) 378-3730
FAX (503) 378-8130

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.



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

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

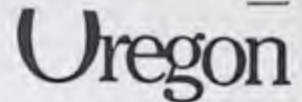
If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections



January 13, 1994

Karen Russell, Assistant Director
WaterWatch of Oregon
921 Southwest Morrison, Suite 438
Portland, OR 97205

WATER
RESOURCES
DEPARTMENT

Re: Denial of Objections
to Application File Number G 12905

Dear Ms. Russell:

The Director of the Water Resources Department has reviewed your Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G 12905 submitted by Eagle Ridge Development Corp.. As the result of the Director's assessment, all of the Objections submitted by WaterWatch of Oregon to this proposed use are hereby denied.

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

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

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

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

The Technical Review conducted on application G 12905 did include consideration of the elements specified in OAR 690-11-160(1) as is documented by the information contained in the records of the Department including the Application File.



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

You have asserted 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. there has been no determination that the proposed water use will in fact reduce the flows or have any impact on the water quality of the Deschutes River. The Department has determined that groundwater for the proposed use can, if properly conditioned, avoid injury to existing rights or to the groundwater resource.

As indicated in the Technical review Report on G 12905, a permit issued on G 12905 would require an annual static water level measurement and prescribe water-level declines parameters. (See Proposed Permit Condition #6.)

Your Objections include an allegation regarding the lack of sufficient measuring and reporting in the Report's Proposed Permit Conditions. Consistent with established policy, the Department requires some form of measuring and reporting condition on all permits issued. If a permit is issued on this Application it will include a sufficient measuring and reporting condition.

You have asserted the proposed use will interfere with the surface waters of the basin. You have not set forth facts which establish that the proposed use will interfere with the surface waters of the basin. The Groundwater/Hydrology section indicates that, the proposed groundwater use will not have the potential for substantial interference with the nearest surface water.

You have asserted the use as proposed violates statewide policies. You have not set forth facts which establish that the proposed use violates statewide policies. The proposed use is not inconsistent with the Groundwater Management Policy as established by the Water Resources Commission. The Departemnt recognizes its obligation to protect the waters of the state from over-appropriation and the need to manage the groundwater and surface water conjectivity where to do so will protect the water resources, existing rights and the public interest. You have not set forth facts which establish that this approval of the proposed use would allocate water beyond the capacity of the resource in violation of the Water Allocation Policy.

WaterWatch
January 13, 1994
Page 3

Your objections include the statement that the application was processed out of order. As of this spring, this application will have been pending for two years. The application clearly falls within that category of applications which the legislature instructed the Water Resources Department to process in as timely a manner as possible. Other applicants will not be disadvantaged by the processing of this groundwater application, as the Groundwater/Hydrology Section has determined that there is no potential for substantial interference with surface waters.

WaterWatch has alleged the proposed use as proposed is not compatible with local land use plans and is contrary to the Department's rules. No recommendation to issue a permit will be made unless a determination has been made that the proposed use will not impair or be detrimental to the public interest. Such a finding could not be made unless land use approval has been secured.

On January 13, 1994, 1994 a final order granting land use approval to Eagle Ridge Development Corp. was issued by the Deschutes County Hearings Officer. (Copy of the Deschutes County order is included in the application file.)

The objection you submitted also include an allegation that the Report's Proposed Permit Condition #14 would allow a transfer of more water than allowed under a permit. Oregon water law prohibits expansion of a water right. The language of Condition #14 would allow less water to be transferred than originally permitted by limiting the a future transfer to the capacity of the facility at the time of perfection. The amount certified could be less than but could not exceed the original terms of the permit.

Your objections do not meet the requirements of OAR 690-11-170 (1). The Director has determined that you have not established that the Technical Review is defective and you have not identified elements of the proposed water use that may impair or be detrimental to the public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited. You may protest this denial of your Objections. You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in the Oregon Administrative Rules, Chapter 690, Division Two, Sections 030 through 080. (OAR 690-02-030 through 080).

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

WaterWatch
January 13, 1994
Page 4

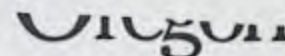
If you have any questions, please call.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
Marion Millard;
Clifford T. Thomas;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Enc: Other Objections



January 13, 1994

WATER
RESOURCES
DEPARTMENT

Sandra Sands
Friends of Cline Butte
3450 S.W. 81st
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Sands and Signatories of Canyon River
Territory residents petition of 3/14/1991:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, your Objection to this proposed water use is hereby denied.

The objections you have raised are environmental issues for which the Department of Environmental Quality (DEQ) is responsible and for which the Water Resources Department has no regulatory authority. The Water Resources Department works with DEQ on ongoing basis to ensure environmental regulations are met and conditions permits to comply with DEQ regulations when applicable.

You have objected on the basis that a ground water resource study has not been done. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

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

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

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

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

The Technical Review conducted on application #G 12905 did include consideration of the elements specified in OAR 690-11-160 (1) as is documented by the information contained in the records of the Department including the Application File.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Clifford T.Thomas;
Canyon River Residents;
James L. Goodell;
Rep. Beverly Clarno;
Robert C.Riggs, Mayor of Redmond;
W&H Pacific

Encl: other Objections

A January to remember

Rainfall low, mercury high

By Ray Hatton
For The Bulletin

To you folks who want to keep Central Oregon the way it is, just one word: Shssshh. Don't tell anyone about our January 1994 weather; tell outsiders about the one we had a year ago.

To you chamber of commerce types, spread the message, "January was golfing weather (well, almost), the skiing was great, and sunscreen a must."

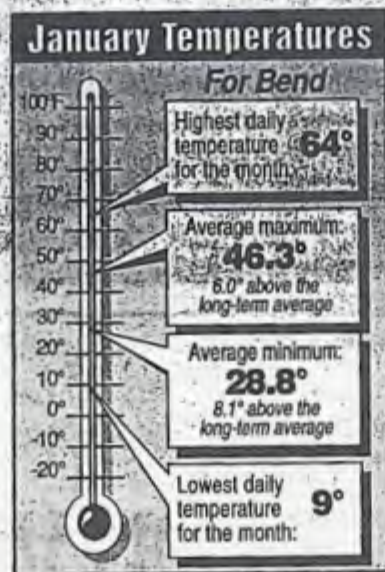
In a month that saw a devastating earthquake in the Los Angeles area, repeated blasts of Arctic air and snowstorm after snowstorm across the Midwest and the East Coast, Mother Nature was awfully kind to Central Oregonians — except that she was stingy with her moisture.

According to weather observer Don Mason, who lives in the Boonesborough subdivision between Bend and Redmond, there was some sunshine on all or part of 30 days in January. He tabulated "clear" to "partly cloudy" skies on 13 days.

As in December, high pressure was the dominant atmospheric condition throughout most of January, with the barometer reading above 30 inches of mercury (29.92 is the average) on all but six dates. However, unlike December, the high-pressure system for several days was centered to the southeast.

Air flow from the south caused some exceptionally mild readings rather than the chilling fog so prevalent in December.

January average maximum



temperatures in Central Oregon included 46.3 degrees in Bend, 50.6 in Boonesborough, but only 43.8 in Sunriver — considerable differences in less than 25 miles. For Bend, the January average maximum was 6.0 degrees above the long-term average and ranked seventh-highest on record. In January 1934, Bend's January average maximum was a remarkably mild 50.5 degrees.

Bend's highest reading for January was a record-breaking 64 degrees on the 19th, surpassing the 60 degrees on that date in 1978.

Elsewhere in Central Oregon, mild readings included 63 degrees at Prineville and Sisters, and 64 degrees at Boonesborough, where Mason noted 60 degrees or higher on five dates.

Except for the last day in the month, there were no exceptionally low minimum temperatures. On the 31st, minimum readings included 9 degrees at Bend, 7 degrees at Sunriver, and 6 degrees at Boonesborough and

Redmond.

Bend's average January minimum temperature, 28.8 degrees, was 8.1 degrees above "normal" and ranked fifth-highest minimum on record. Overall, Bend's January average temperature, 37.6 degrees, was 7.1 degrees above the long-term average and ranked fourth mildest since records were started in 1901. (In 1934, Bend's January temperatures averaged 40.9 degrees.)

Not only was January mild but it was also exceptionally dry. Bend's total precipitation, which should be close to 2 inches, was only 0.27 inches. All of this moisture (such as it was), including 2.7 inches of snow, fell between Jan. 1 and 6.

January precipitation totals elsewhere in Central Oregon included a measly 0.09 inches at Boonesborough, 1.17 inches at Sisters, 1.40 inches at Sunriver, but as much as 2.89 inches at Black Butte Ranch, where in two days in early January, 1.6 inches were recorded. Again, as with temperatures, these are significant variations in moisture amounts within a relatively small area.

Since the start of the water year, Oct. 1, 1993, Bend's precipitation total to the end of January stood at only 1.99 inches, about 30 percent of what it should be. Only in three other water years — 1976-77 (with 0.87 inches), 1990-91 (1.59 inches), and 1954-55 (1.69 inches) — has Bend been drier for the Oct. 1 through Jan. 31 period.

In many respects this winter is looking more like 1976-77, a period of drought that extended until the fall of 1977.

Editor's note: Ray Hatton is a former professor at Central Oregon Community College.

Double-digit growth

BULLETIN

2/8/94

Bend, Portland lead way

PORTLAND (AP) — The decade opened and will likely close with the Portland suburbs and Deschutes County leading Oregon in population growth.

Figures released Monday by the U.S. Census Bureau showed that the Portland suburb of Tualatin led Oregon cities with a 14.8 percent growth rate from 1990 to 1992, to 17,231 people.

Deschutes County in Central Oregon grew at a 12.4 percent rate, to 84,234 people, with the county seat of Bend expanding by 10 percent to 22,514.

Neighboring Jefferson and Crook counties also were among

the fastest growing areas in Oregon, along with Washington and Clackamas counties, which contain most of Portland's suburbs.

Ed Schafer, the director of the Oregon State Data Center at Portland State University, said the growth pattern will continue because of a strong Oregon economy.

Much of the growth comes from Californians moving to Oregon to escape the weakening California economy and high housing costs, Schafer said.

"We have lower housing costs than most major cities in California or in Western Washington," Schafer said.

FEB 14 1994

ARLU DeCo

P. O. Box 1508 • Sisters, Oregon 97759

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. Bigler
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

RECEIVED

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P. O. Box 1508 • Sisters, Oregon 97759

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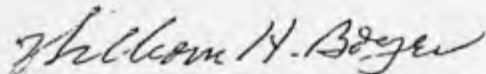
SALES (503) 549-1807/548-6544

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

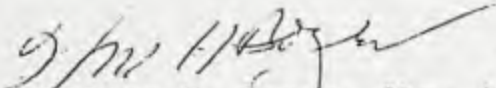
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Jen Twining, Exec. Dir.

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
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Bob Brockway
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Dorothy Schoonmaker
Sandi Sands
Jen Twining, Exec. Dir.

The Alliance for Responsible Land Use in Deschutes County

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January 13, 1994

WATER
RESOURCES
DEPARTMENT

Jen Twining, Executive Director
ARLU DeCo
c/o Sandra Sands
P.O. Box 1508
Sisters, OR 97759

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Twining:

The Director of the Water Resources Department has reviewed your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. As the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have asserted the Technical Report is defective because the report fails to contain many of the elements and evaluations required in OAR 690-11-160(1) and (6).

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

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

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

The Technical Review conducted on application #00The rules of the Water Resources Commission require that the technical review analysis include the elements contained in OAR 690-11-160(1)(a)-(h). There is no requirement that the report of technical review include those elements. In order to maintain clarity and simplicity, a number of technical review factors included in the file checklists are not contained in the reports.



A technical review report is a summary of the technical evaluation conducted on a water use application. The Technical Review conducted on application #G12905 did include consideration of the elements specified in OAR 690-11-160 (1) and in your objections. Those elements are documented in the information contained in the records of the Department including the Application File.

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

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

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

The Technical Review conducted on application #G 12905 did include consideration of the elements specified in OAR 690-11-160 (1) as is documented by the information contained in the records of the Department including the Application File.

The Application is conditioned to protect existing conflicting rights. These are rights with the same point of diversion or the rights which are appurtenant to the same land.

The Report is not required to contain the evaluation by the Groundwater/Hydrology Section. There is no provision in the objection process for objectors to evaluate and respond to groundwater analyses after the protest filing period has ended.

The Report is not required to contain the evaluation of whether the amount of water requested is necessary for the proposed is, nor is it required to state for which homesites water is requested. The Application clearly indicated the water was for an additional 900 dwellings at Eagle Crest Resort and 42 dwelling in the Cline Falls Oasis subdivision.

The Report is not required to contain an analysis of the information obtained by the local governments regarding land compatibility. The Proposed Permit Conditions contain a conditioned requiring the Applicant to obtain land use approval before a permit will be issued. The Water Resources Department will continue to use its Land Use Information Form for the respective governments to indicate their approval or disapproval of proposed projects. The Departemnt has complied with OAR 690-05-035 by appropriately conditioning the proposed permit.

On January 13, 1994, a final order granting land use approval to Eagle Ridge Development Corp. was issued by the Deschutes County Hearings Officer. (Copy of the Descutes County order is included in the application file.)

Water Resources Department policies allow for 0.03 cfs for six to ten families including irrigation of up to one-half acre of lawn and garden. Using that policy, the amount of water to be allowed was determined to be 3.0 cfs.

Based on analyses of well log and other data, the Groundwater/Hydrology Section has determined that the 25-foot decline standard is appropriate.

The proposed construction dates will be adjusted based on the issue date of the permit, if issued.

The Water Resources Department is the party responsible for interpreting the permit conditions. Requiring specific technologies and practices could limit the Department's ability to manage the resource.

The Oregon Legislature has set the frequency with which pumps test are to be completed.

There are already other proposed uses from this point of appropriation. This condition prohibits additional appropriations from this point of diversion, from additional points of diversion and in the event of a transfer of water right.

You have not established that the Technical Review is defective and you have not identified elements of the proposed water use that would impair or be detrimental to the public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in. OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

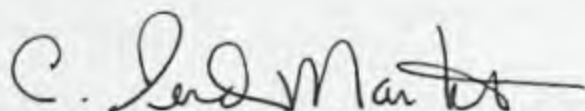
If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,



A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
Clifford T. Thomas;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

Karen Russell, Assistant Director
WaterWatch of Oregon
921 Southwest Morrison, Suite 438
Portland, OR 97205

Re: Denial of Objections
to Application File Number G 12905

Dear Ms. Russell:

The Director of the Water Resources Department has reviewed your Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G 12905 submitted by Eagle Ridge Development Corp.. As the result of the Director's assessment, all of the Objections submitted by WaterWatch of Oregon to this proposed use are hereby denied.

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

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

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

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

The Technical Review conducted on application G 12905 did include consideration of the elements specified in OAR 690-11-160(1) as is documented by the information contained in the records of the Department including the Application File.



You have asserted 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. There has been no determination that the proposed water use will in fact reduce the flows or have any impact on the water quality of the Deschutes River. The Department has determined that groundwater for the proposed use can, if properly conditioned, avoid injury to existing rights or to the groundwater resource.

As indicated in the Technical review Report on G 12905, a permit issued on G 12905 would require an annual static water level measurement and prescribe water-level declines parameters. (See Proposed Permit Condition #6.)

Your Objections include an allegation regarding the lack of sufficient measuring and reporting in the Report's Proposed Permit Conditions. Consistent with established policy, the Department requires some form of measuring and reporting condition on all permits issued. If a permit is issued on this Application it will include a sufficient measuring and reporting condition.

You have asserted the proposed use will interfere with the surface waters of the basin. You have not set forth facts which establish that the proposed use will interfere with the surface waters of the basin. The Groundwater/Hydrology section indicates that, the proposed groundwater use will not have the potential for substantial interference with the nearest surface water.

You have asserted the use as proposed violates statewide policies. You have not set forth facts which establish that the proposed use violates statewide policies. The proposed use is not inconsistent with the Groundwater Management Policy as established by the Water Resources Commission. The Department recognizes its obligation to protect the waters of the state from over-appropriation and the need to manage the groundwater and surface water connectivity where to do so will protect the water resources, existing rights and the public interest. You have not set forth facts which establish that this approval of the proposed use would allocate water beyond the capacity of the resource in violation of the Water Allocation Policy.

WaterWatch
January 13, 1994
Page 3

Your objections include the statement that the application was processed out of order. As of this spring, this application will have been pending for two years. The application clearly falls within that category of applications which the legislature instructed the Water Resources Department to process in as timely a manner as possible. Other applicants will not be disadvantaged by the processing of this groundwater application, as the Groundwater/Hydrology Section has determined that there is no potential for substantial interference with surface waters.

WaterWatch has alleged the proposed use as proposed is not compatible with local land use plans and is contrary to the Department's rules. No recommendation to issue a permit will be made unless a determination has been made that the proposed use will not impair or be detrimental to the public interest. Such a finding could not be made unless land use approval has been secured.

On January 13, 1994, a final order granting land use approval to Eagle Ridge Development Corp. was issued by the Deschutes County Hearings Officer. (Copy of the Deschutes County order is included in the application file.)

The objection you submitted also include an allegation that the Report's Proposed Permit Condition #14 would allow a transfer of more water than allowed under a permit. Oregon water law prohibits expansion of a water right. The language of Condition #14 would allow less water to be transferred than originally permitted by limiting the a future transfer to the capacity of the facility at the time of perfection. The amount certified could be less than but could not exceed the original terms of the permit.

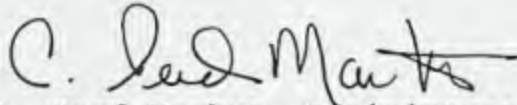
Your objections do not meet the requirements of OAR 690-11-170 (1). The Director has determined that you have not established that the Technical Review is defective and you have not identified elements of the proposed water use that may impair or be detrimental to the public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited. You may protest this denial of your Objections. You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in the Oregon Administrative Rules, Chapter 690, Division Two, Sections 030 through 080. (OAR 690-02-030 through 080).

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

WaterWatch
January 13, 1994
Page 4

If you have any questions, please call.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Reed Marbut".

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
Clifford T. Thomas;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Sandra Sands
Friends of Cline Butte
3450 S.W. 81st
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Sands and Signatories of Canyon River
Territory residents petition of 3/14/1991:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

The objections you have raised are environmental issues for which the Department of Environmental Quality (DEQ) is responsible and for which the Water Resources Department has no regulatory authority. The Water Resources Department works with DEQ on ongoing basis to ensure environmental regulations are met and conditions permits to comply with DEQ regulations when applicable.

You have objected on the basis that a ground water resource study has not been done. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

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

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



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

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

The Technical Review conducted on application #G 12905 did include consideration of the elements specified in OAR 690-11-160 (1) as is documented by the information contained in the records of the Department including the Application File.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

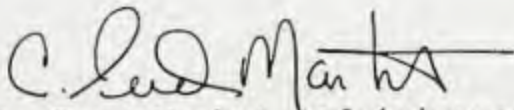
If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Reed Marbut", followed by a horizontal line.

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Clifford T.Thomas;
Canyon River Residents;
James L. Goodell;
Rep. Beverly Clarno;
Robert C.Riggs, Mayor of Redmond;
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Clifford
3201 S.W.
Redmond, OR

Reference File

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.



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

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Clifford T. Thomas
3201 S.W. 73rd
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **all of your Objections to this proposed water use are hereby denied.**

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.



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Salem, OR 97310
(503) 378-3739
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If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, your Objection to this proposed water use is hereby denied.

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.



If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Karen Russell, Assistant Director
WaterWatch of Oregon
921 Southwest Morrison, Suite 438
Portland, OR 97205

Re: Denial of Objections
to Application File Number G 12905

Dear Ms. Russell:

The Director of the Water Resources Department has reviewed your Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G 12905 submitted by Eagle Ridge Development Corp.. As the result of the Director's assessment, all of the Objections submitted by WaterWatch of Oregon to this proposed use are hereby denied.

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

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

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

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

The Technical Review conducted on application G 12905 did include consideration of the elements specified in OAR 690-11-160(1) as is documented by the information contained in the records of the Department including the Application File.



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

You have asserted 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. There has been no determination that the proposed water use will in fact reduce the flows or have any impact on the water quality of the Deschutes River. The Department has determined that groundwater for the proposed use can, if properly conditioned, avoid injury to existing rights or to the groundwater resource.

As indicated in the Technical review Report on G 12905, a permit issued on G 12905 would require an annual static water level measurement and prescribe water-level declines parameters. (See Proposed Permit Condition #6.)

Your Objections include an allegation regarding the lack of sufficient measuring and reporting in the Report's Proposed Permit Conditions. Consistent with established policy, the Department requires some form of measuring and reporting condition on all permits issued. If a permit is issued on this Application it will include a sufficient measuring and reporting condition.

You have asserted the proposed use will interfere with the surface waters of the basin. You have not set forth facts which establish that the proposed use will interfere with the surface waters of the basin. The Groundwater/Hydrology section indicates that, the proposed groundwater use will not have the potential for substantial interference with the nearest surface water.

You have asserted the use as proposed violates statewide policies. You have not set forth facts which establish that the proposed use violates statewide policies. The proposed use is not inconsistent with the Groundwater Management Policy as established by the Water Resources Commission. The Department recognizes its obligation to protect the waters of the state from over-appropriation and the need to manage the groundwater and surface water connectivity where to do so will protect the water resources, existing rights and the public interest. You have not set forth facts which establish that this approval of the proposed use would allocate water beyond the capacity of the resource in violation of the Water Allocation Policy.

WaterWatch
January 13, 1994
Page 3

Your objections include the statement that the application was processed out of order. As of this spring, this application will have been pending for two years. The application clearly falls within that category of applications which the legislature instructed the Water Resources Department to process in as timely a manner as possible. Other applicants will not be disadvantaged by the processing of this groundwater application, as the Groundwater/Hydrology Section has determined that there is no potential for substantial interference with surface waters.

WaterWatch has alleged the proposed use as proposed is not compatible with local land use plans and is contrary to the Department's rules. No recommendation to issue a permit will be made unless a determination has been made that the proposed use will not impair or be detrimental to the public interest. Such a finding could not be made unless land use approval has been secured.

On January 13, 1994, 1994 a final order granting land use approval to Eagle Ridge Development Corp. was issued by the Deschutes County Hearings Officer. (Copy of the Deschutes County order is included in the application file.)

The objection you submitted also include an allegation that the Report's Proposed Permit Condition #14 would allow a transfer of more water than allowed under a permit. Oregon water law prohibits expansion of a water right. The language of Condition #14 would allow less water to be transferred than originally permitted by limiting the a future transfer to the capacity of the facility at the time of perfection. The amount certified could be less than but could not exceed the original terms of the permit.

Your objections do not meet the requirements of OAR 690-11-170 (1). The Director has determined that you have not established that the Technical Review is defective and you have not identified elements of the proposed water use that may impair or be detrimental to the public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited. You may protest this denial of your Objections. You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in the Oregon Administrative Rules, Chapter 690, Division Two, Sections 030 through 080. (OAR 690-02-030 through 080).

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 14, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

WaterWatch
January 13, 1994
Page 4

If you have any questions, please call.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
Marion Millard;
Clifford T. Thomas;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Enc: Other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Sandra Sands
Friends of Cline Butte
3450 S.W. 81st
Redmond, OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Sands and Signatories of Canyon River
Territory residents petition of 3/14/1991:

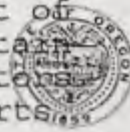
The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, your Objection to this proposed water use is hereby denied.

The objections you have raised are environmental issues for which the Department of Environmental Quality (DEQ) is responsible and for which the Water Resources Department has no regulatory authority. The Water Resources Department works with DEQ on ongoing basis to ensure environmental regulations are met and conditions permits to comply with DEQ regulations when applicable.

You have objected on the basis that a ground water resource study has not been done. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

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

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



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The Technical Review conducted on application #G 12905 did include consideration of the elements specified in OAR 690-11-160 (1) as is documented by the information contained in the records of the Department including the Application File.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

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If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Clifford T.Thomas;
Canyon River Residents;
James L. Goodell;
Rep. Beverly Clarno;
Robert C.Riggs, Mayor of Redmond;
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Jen Twining, Executive Director
ARLU DeCo
c/o Sandra Sands
P.O. Box 1508
Sisters, OR 97759

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Twining:

The Director of the Water Resources Department has reviewed your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. As the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have asserted the Technical Report is defective because the report fails to contain many of the elements and evaluations required in OAR 690-11-160(1) and (6).

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

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

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

The Technical Review conducted on application #00The rules of the Water Resources Commission require that the technical review analysis include the elements contained in OAR 690-11-160(1)(a)-(h). There is no requirement that the report of technical review include those elements. In order to maintain clarity and simplicity, a number of technical review factors included in the file checklists are not contained in the reports.



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

A technical review report is a summary of the technical evaluation conducted on a water use application. The Technical Review conducted on application #G12905 did include consideration of the elements specified in OAR 690-11-160 (1) and in your objections. Those elements are documented in the information contained in the records of the Department including the Application File.

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

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

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

The Technical Review conducted on application #G 12905 did include consideration of the elements specified in OAR 690-11-160 (1) as is documented by the information contained in the records of the Department including the Application File.

The Application is conditioned to protect existing conflicting rights. These are rights with the same point of diversion or the rights which are appurtenant to the same land.

The Report is not required to contain the evaluation by the Groundwater/Hydrology Section. There is no provision in the objection process for objectors to evaluate and respond to groundwater analyses after the protest filing period has ended.

The Report is not required to contain the evaluation of whether the amount of water requested is necessary for the proposed is, nor is it required to state for which homesites water is requested. The Application clearly indicated the water was for an additional 900 dwellings at Eagle Crest Resort and 42 dwelling in the Cline Falls Oasis subdivision.

The Report is not required to contain an analysis of the information obtained by the local governments regarding land compatibility. The Proposed Permit Conditions contain a conditioned requiring the Applicant to obtain land use approval before a permit will be issued. The Water Resources Department will continue to use its Land Use Information Form for the respective governments to indicate their approval or disapproval of proposed projects. The Departemnt has complied with OAR 690-05-035 by appropriately conditioning the proposed permit.

On January 13, 1994, a final order granting land use approval to Eagle Ridge Development Corp. was issued by the Deschutes County Hearings Officer. (Copy of the Descutes County order is included in the application file.)

Water Resources Department policies allow for 0.03 cfs for six to ten families including irrigation of up to one-half acre of lawn and garden. Using that policy, the amount of water to be allowed was determined to be 3.0 cfs.

Based on analyses of well log and other data, the Groundwater/Hydrology Section has determined that the 25-foot decline standard is appropriate.

The proposed construction dates will be adjusted based on the issue date of the permit, if issued.

The Water Resources Department is the party responsible for interpreting the permit conditions. Requiring specific technologies and practices could limit the Department's ability to manage the resource.

The Oregon Legislature has set the frequency with which pumps test are to be completed.

There are already other proposed uses from this point of appropriation. This condition prohibits additional appropriations from this point of diversion, from additional points of diversion and in the event of a transfer of water right.

You have not established that the Technical Review is defective and you have not identified elements of the proposed water use that would impair or be detrimental to the public interest. You have not set forth facts which would support allegations that the proposed water use is prohibited.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in. OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.

If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
Clifford T. Thomas;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

January 13, 1994

WATER
RESOURCES
DEPARTMENT

Clifford T. Thomas
3201 S.W. 73rd
Redmond OR 97756

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Mr. Thomas;

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, all of your Objections to this proposed water use are hereby denied.

You have objected on the basis that a ground water resource study has not been done for the Deschutes Basin. A hydrogeologic study has been completed for the proposed project has been submitted to the Water Resources Department and to Deschutes County. The study found that it was unlikely that water level impacts would be discernable beyond a few tenths of feet. It also found that the groundwater withdrawal would not have an impact on the surface waters.

You have objected to the additional withdrawal of water from existing wells. Additional appropriations from an existing point of diversion are allowed under Water Resources Department Rules.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

Send your protest by regular mail or deliver it in person. Your protest must be received by the Water Resources Department in Salem, Oregon, no later than 5:00 p.m. on or before February 13, 1994. Your protest must be in proper form and accompanied by a fee of \$25.00.



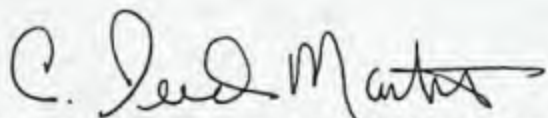
If a timely protest is submitted in the proper form, the protest, and the Application File with your Objections will be taken before the Water Resources Commission for review.

If no protests are received, the Application will undergo a public interest review. As the result of that public interest evaluation, a recommendation will be made to reject the proposed use, or issue a permit.

No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,

A handwritten signature in cursive script, reading "A. Reed Marbut".

A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
Marion Millard;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in. OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

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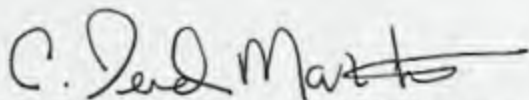
3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
FAX (503) 378-8130

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No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,



A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections

Oregon

WATER
RESOURCES
DEPARTMENT

January 13, 1994

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

Reference File No. G-12905

Re: Denial of Objections
to Application File Number G-12905

Dear Ms. Millard:

The Water Resources Department has received your letter of Objections to the proposed water use reported in the Satisfactory Report of Technical Review announced on Application File Number G12905 submitted by Eagle Ridge Development Corp. Your Objections have been reviewed by the Director and as the result of the Director's assessment, **your Objection to this proposed water use is hereby denied.**

You have objected to the proposed area of use of the water as stated in the Technical Review. The area covered in the application did not include the tax lots listed in your protest and the permit, if issued, will only allow water to be used on lands owned by Eagle Ridge Development or lands that Eagle Ridge has permission from the owners to include in the application.

You may protest this Denial of your Objection(s). You have thirty (30) days from the date of this letter to file a protest. Your protest must comply with the standards set out in OAR 690-02-030 through 080. A copy of these protest rules is enclosed here for you. The rules for regarding the protest must be followed exactly.

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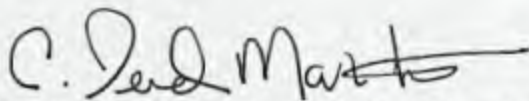
3850 Portland Rd NE
Salem, OR 97310
(503) 378-3739
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No permit will be issued on the Application which cannot be conditioned to adequately protect the resource and senior water rights.

If you have any questions, please call us in the Water Rights Division.

Sincerely,



A. Reed Marbut, Administrator
Water Rights and Adjudications Division

cc: Eagle Ridge Development;
WaterWatch;
ARLU DeCo;
Friends of Cline Butte, Sandra Sands;
Clifford T. Thomas
Canyon River Residents
James L. Goodell
Rep. Beverly Clarno;
Robert C. Riggs, Mayor of Redmond
W&H Pacific

Encl: other Objections



February 19, 1993

Mr. Stephen C. Brown
Senior Water Right Specialist
Oregon Water Resources Department
3850 Portland Road, N.E.
Salem, Oregon 97310

RECEIVED
FEB 22 1993
WATER RESOURCES DEPT.
SALEM, OREGON

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

Dear Steve:

Thank you for your assistance with our pending groundwater appropriation application for Eagle Ridge Development Corporation. In conformance with your request, I have developed a clarification for our proposed project schedule.

In our application, I requested five years from the date construction work will begin until the date construction will be completed. I requested an additional 5 years for water use to be completed. I recognize now that no more than 5 years is allowed by the OWRD to complete water use. I respectfully request an appropriate 5 year project schedule.

Our project will include domestic use and the associated groundwater well, distribution system, storage facility, fire suppression system, and appurtenances. Our system improvements will be constructed in phases, as the project develops. Two groundwater wells have already been constructed, but construction of the water distribution system will span many years. Water use will increase slowly, as structures are provided. This type of development program and schedule are very typical for domestic uses and we anticipate that water use will not be completed until the year 2002, or possibly later.

The applicant understands that appropriate extensions must be requested and approved if construction work and water use are not completed within the project schedule you specify.

Thank you again for your assistance. Please never hesitate to contact me with your questions and comments.

Very truly yours,
W&H PACIFIC, INC.

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

cc: William D. Lyche

05260101\ab021893.ltr



RECEIVED

AUG 23 1991

W & H PACIFIC INC

THIS PERMIT

EAGLE RIDGE
P.O. BOX 12
REDMOND, OR

to use the
IRRIGATION

This permit
priority is
4.28 CUBIC
0.31 CFS FO.
measured at the wells.

1921 gpm

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.

Application G-12429 Water Resources Department PERMIT G-11313

Tom,

4/9

Please prepare
draft TR for
my review.

Thanks

Steve B

ATTACHED

Tom

ERS

CH 11

MAY 04 1992

WATER RESOURCES DEPT
SALEM, OREGON

RIVER BASIN for
LF COURSE).

29. The date of
to not more than
OR IRRIGATION AND
base of rotation,

Thomas Walker

RECEIVED
AUG 23 1991

W & H PACIFIC INC.

1921 gpm

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
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SE 1/4 SW 1/4	13.08 ACRES AND COMMERCIAL USE
SECTION 14	

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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.

Application G-12429 Water Resources Department PERMIT G-11313

Thomas Walker

RECEIVED

MAY 04 1992

WATER RESOURCES DEPT
SALEM, OREGON

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.

William H. Young
Water Resources Department
William H. Young
Director

RECEIVED
AUG 12 1991

WATER RESOURCES DEPT.

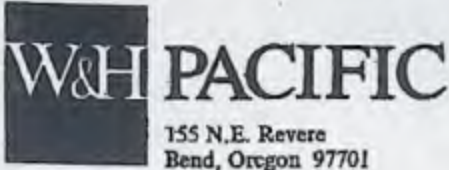
RECEIVED

MAY 04 1992

WATER RESOURCES DEPT.
SALEM, OREGON

Creative Solutions ... Superior Service

file G-12905



155 N.E. Revere
Bend, Oregon 97701

(503) 388-4255
FAX (503) 388-4229

- Planning
- Engineering

- Surveying
- Landscape Architecture

- Environmental Services

To: MR. STEVE BROWN

Date: 2-22-93

OREGON WATER RESOURCES DEPT

Project Number: 526-01-01

Project Name: EAGLE RIDGE DEVELOPMENT COM

Regarding: WATER RIGHT APPROPRIATION

APPLICATION - OWRD FILE # G-12905

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

We Are Sending:

These Are Transmitted:

Copied To:

☒ Attached

☒ For Your Info/File

BILL LYCHKE

☒ Facsimile

☒ As Requested

6 Number Of Pages Including Cover

☒ For Review And Comment☐

[

Copies	Description
1	UPDATED (2-22-93) LAND USE COMPATABILITY STATEMENT

Comments

Signed

Tom Walker

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

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

Applicant's Name: EAGLE RIDGE DEVELOPMENT CORPORATION
 Address: P.O. BOX 1215
 City: REDMOND State: OR Zip: 97756 Day Phone: (503) 923-0807

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

Tax Lot or Local I.D.#	Plan Designation/Zoning (e.g. Rural Residential/RR-5)	Check All That Apply		
		Water Diverted	Water Conveyed	Water Use
TL 1500	T15S R12E EFU 40	X	X	DOMESTIC
TL 100 & 101	T15S R12E SECTION 22 EFU 40	X	X	DOMESTIC
TL 1500	T15S R12E SECTION 23B EFU 40	X	X	DOMESTIC

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

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

For Local Government Use Only

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

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

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

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

Type of Land Use Approvals Needed (e.g.: plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Please check the box that applies:		
		Already Obtained	Already Denied	Being Pursued Satisfactorily
Conditional Use	Ch. 18.113 of Title 18			✓
Subdivision Approval	Title 17 of D.C.C.			✓

(over)

(over)

Receipt for Request for Land Use Information

WRD Applicant Name: _____

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

City or County: _____

Staff Contact: _____ Phone: _____

Signature: _____ Date of Information Request: _____

(For Local Use Continued)

b) Please provide printed name and written signature.

Name: Dale Van Valkenburg

Title: Associate Planner

Date: 2-22-93

Phone: 388-6575

Signature: Dale Van Valkenburg

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

Additional Comments:

Applicant has applied for all relevant land use
applications. Review process is currently stalled
due to circumstances beyond applicant's
control.

See specificall section 18.113.050(B)(K) attached.

Oregon Water Resources Department
3850 Portland Rd. NE
Salem, OR 97310
378 - 3671

Version: 8/27/90

Description of Water Use

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

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

Applicant Name: EAGLE RIDGE DEVELOPMENT CORPORATION

Address: P.O. BOX 1215

REDMOND, OREGON 97756

Phone: (503) 923-0807

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

- ☐ Irrigation (crop type, golf course, nursery or greenhouse): _____
- ☐ Livestock (type of livestock, feedlot, slaughterhouse): _____
- ☒ Residential (# units, single or multi-family, # lots if partition or subdivision): Approximately 900
equivalent dwelling units, including 450 single-family, 150 multi-family, and 250 _____
- ☐ Commercial (i.e., retail, office, restaurant, gas station, hotel, service, etc.): _____
- ☐ Industrial (i.e., factory, pulp mill, research and development, processing, etc.): _____
- ☐ Institutional (i.e., school, library, etc.): _____
- ☐ Mining (aggregate, metal, open pit, placer, etc.): _____
- ☐ Recreation (park, campsite, pond, etc.): _____
- ☐ Fish and Wildlife (pond, hatchery, etc.): _____
- ☐ Hydropower (dam, reservoir, power generating or transmitting facilities): _____
- ☐ Other (Name and list key characteristics): _____

Indicate sources for the proposed water use below:	Indicate the estimated quantity of water the use will require.
☐ Surface Water Name sources: _____ _____ _____	<u>4.01</u> Cubic feet per second. _____ Gallons per minute. _____ Acre-Feet
☐ Reservoir or pond	
☒ Ground Water	

development including an explanation of when facilities will be provided and how they will be secured if not completed prior to closure of sale of individual lots or units;

* i. An explanation of how the destination resort has been sited or designed to avoid or minimize adverse effects or conflicts on adjacent lands. The application shall identify the surrounding uses and potential conflicts between the destination resort and adjacent uses within 660 feet of the boundaries of the parcel or parcels upon which the resort is to be developed. The application shall explain how any proposed buffer area will avoid or minimize adverse effects or conflicts;

j. A description of the proposed method for providing emergency medical facilities and services and public safety facilities and services including fire and police protection;

~~A study prepared by a hydrologist, engineering geologist or similar professional certified in the State of Oregon describing:~~

1. An estimate of water demands for the destination resort at maximum buildout, including a breakdown of estimated demand by category of consumption, including but not limited to, residential, commercial, golf courses and irrigated common areas;

2. Availability of water for estimated demands at the destination resort, including (1) identification of the proposed source; (2) identification of all available information on ground and surface waters relevant to the determination of adequacy of water supply for the destination resort; (3) identification of the area that may be measurably impacted by the water used by the destination resort (water impact area) and an analysis supporting the delineation of the impact area; and (4) a statistically valid sampling of domestic and other wells within the impact area;

* 3. A water conservation plan including an analysis of available measures which are commonly used to reduce water consumption. This shall include a justification of the chosen water conservation plan. The water conserva-

tion plan shall include a waste water disposal plan utilizing beneficial use of reclaimed water to the maximum extent practicable.

For the purposes of this section, beneficial uses shall include, but are not limited to:

X i. Irrigation of golf courses and greenways;

X ii. Establishment of artificial wetlands for wildlife habitation.

1. An erosion control plan for all disturbed land, as required by ORS Chapter 468. This plan shall include storm and melt-water erosion control to be implemented during all phases of construction and permanent facilities or practices for the continuing treatment of these waters. This plan shall also explain how the water shall be used for beneficial use or why it cannot be used as such;

m. A description of proposed sewage disposal methods;

n. Wildfire prevention, control and evacuation plans;

o. A description of interim development including temporary structures related to sales and development;

p. Plans for owners' associations and related transition of responsibilities and transfer of property;

q. A description of the methods of ensuring that all facilities and common areas within each phase will be established and will be maintained in perpetuity;

r. A survey of housing availability for employees based upon income level and commuting distance;

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

1. An analysis which addresses the economic viability of the proposed development;

2. Fiscal impacts of the project, including changes in employment, increased tax revenue, demands for new or increased levels of public services, housing for employees and

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.

c. Access within the project shall be adequate to serve the project in a safe and efficient manner for each phase of the project.

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 § 1. 1992)

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.

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.

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.

L. The waste water disposal plan includes beneficial use to the maximum extent practicable. Approval of the CMP shall be conditioned on applicant's 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.

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

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.

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



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FEB 27 1993
SALIDA, OREGON

G12905

To: MR. STEPHEN C. BROWN
OREGON WATER RESOURCES DEPT.

Date: 2-19-93
Project Number: 526-01-01
Project Name: EAGLE RIDGE DEVELOPMENT
Regarding: CORPORATION - APPROPRIATION
APPLICATION - OWRD FILE #: G-12905

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Comments

STEVE,

I HAVE UPDATED OUR LAND USE COMPATABILITY
STATEMENT AND EXPECT DESCHUTES COUNTY EXECUTION
EARLY NEXT WEEK. I WILL FAX THE DOCUMENT
AS SOON AS POSSIBLE.

THANK-YOU.

Signed

Tom Walker

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G-12905

To: MR. STEPHEN C. BROWNDate: 2-19-93OREGON WATER RESOURCES DEPT.Project Number: 526-01-01Project Name: EAGLE RIDGE DEVELOPMENTRegarding: CORPORATION - APPROPRIATIONAPPLICATION - OWRD FILE #: G-12905PLEASE NOTIFY US IMMEDIATELY
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STATEMENT. AND EXPECT DESCHUTES COUNTY EXECUTION
EARLY NEXT WEEK. I WILL FAX THE DOCUMENT
AS SOON AS POSSIBLE.

THANK-YOU.

Signed

Tom Walker



February 19, 1993

Mr. Stephen C. Brown
Senior Water Right Specialist
Oregon Water Resources Department
3850 Portland Road, N.E.
Salem, Oregon 97310

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

Dear Steve:

Thank you for your assistance with our pending groundwater appropriation application for Eagle Ridge Development Corporation. In conformance with your request, I have developed a clarification for our proposed project schedule.

In our application, I requested five years from the date construction work will begin until the date construction will be completed. I requested an additional 5 years for water use to be completed. I recognize now that no more than 5 years is allowed by the OWRD to complete water use. I respectfully request an appropriate 5 year project schedule.

Our project will include domestic use and the associated groundwater well, distribution system, storage facility, fire suppression system, and appurtenances. Our system improvements will be constructed in phases, as the project develops. Two groundwater wells have already been constructed, but construction of the water distribution system will span many years. Water use will increase slowly, as structures are provided. This type of development program and schedule are very typical for domestic uses and we anticipate that water use will not be completed until the year 2002, or possibly later.

The applicant understands that appropriate extensions must be requested and approved if construction work and water use are not completed within the project schedule you specify.

Thank you again for your assistance. Please never hesitate to contact me with your questions and comments.

Very truly yours,
W&H PACIFIC, INC.

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

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

cc: William D. Lyche

05260101\06021893.ltr



BEVERLY CLARNO
Majority Whip
House of Representatives

DOSE
cc: Mike M
RECEIVED
FEB 10 1993

WATER RESOURCES DEPT
SALEM, OREGON

2-17
Cal
h

January 28, 1993

cc: Martha
for response
ASAP.

Names:
fy.

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

Dear Martha,

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

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

Sincerely,

Beverly Clarno
Majority Whip
State Representative

Encl.
cc: Jerol E. Andres

BC/gc



FEB 1 REC'D

January 26, 1993

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

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

Dear Bev:

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

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

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

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

Ms. Bev Clarno

- 2 -

January 26, 1993

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

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

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

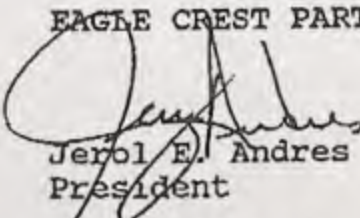
Our experience suggests the OWRD is at a procedural deadlock. I believe the staff at OWRD has done everything in their power to assist us, but are unable to work within their system. The time has come when the procedural problems at OWRD have jeopardized the expansion of Eagle Crest Resort and the associated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

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

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

Very truly yours,

EAGLE CREST PARTNERS, LTD.



Jerol E. Andres
President

cc: Bill Lyche

Jerol E. Andres
President

cc: Bill Lyche
Tom Walker



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Fax (503) 388-4229

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To: MR. STEPHEN C. BROWN
OREGON WATER RESOURCES DEPT.

Date: FEBRUARY 10, 1993

Project Number: 526-0101

Project Name: EAGLE RIDGE DEVELOPMENT CORP.

Regarding: OWRD FILE NO. G-12905

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MR. WILLIAM D. LYCHE

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Comments

Signed

THOMAS A. WALKER, P.E.



February 9, 1993

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

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

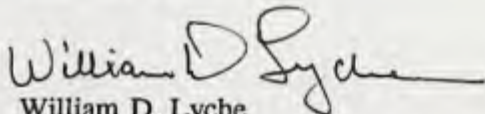
Dear Steve:

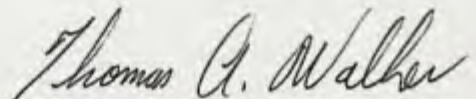
Thank you for your significant assistance with our pending groundwater appropriation application for the proposed expansion of the Eagle Crest Resort. Our original water right appropriation application was submitted April 28, 1992 and has been under review by your department since that time. At this time it is appropriate to change our application.

You are hereby authorized and asked to change item number three on our application, the intended use of water, from quasi-municipal to domestic for approximately 900 dwelling units, including irrigation of lawns and gardens, not to exceed one-half acre per unit.

This change is intended to expedite the processing and approval of our pending application. Your assistance will be greatly appreciated.

Sincerely yours,


William D. Lyche
Eagle Ridge Development Corporation


Thomas A. Walker, P.E., C.W.R.E.
W&H Pacific, Inc.

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To: MR. STEPHEN C. BROWN
OREGON WATER RESOURCES DEPT.

Date: FEBRUARY 10, 1993

Project Number: 526-0101

Project Name: EAGLE RIDGE DEVELOPMENT CORP.

Regarding: OWRD FILE NO. G-12905

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Copied To:

MR. WILLIAM D. LYCHE

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1/15/2018	DEPOSIT	50.00	101	ABC BANK		150.00	1/15/2018	WITHDRAWAL	25.00	102	ABC BANK		125.00
2/1/2018	DEPOSIT	75.00	103	ABC BANK		200.00	2/1/2018	WITHDRAWAL	30.00	104	ABC BANK		170.00
2/15/2018	DEPOSIT	25.00	105	ABC BANK		195.00	2/15/2018	WITHDRAWAL	15.00	106	ABC BANK		180.00
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4/15/2018	DEPOSIT	15.00	113	ABC BANK		310.00	4/15/2018	WITHDRAWAL	5.00	114	ABC BANK		305.00
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11/1/2018	DEPOSIT	5.00	139	ABC BANK		315.00	11/1/2018	WITHDRAWAL	5.00	140	ABC BANK		310.00
11/15/2018	DEPOSIT	5.00	141	ABC BANK		315.00	11/15/2018	WITHDRAWAL	5.00	142	ABC BANK		310.00
12/1/2018	DEPOSIT	5.00	143	ABC BANK		315.00	12/1/2018	WITHDRAWAL	5.00	144	ABC BANK		310.00
12/15/2018	DEPOSIT	5.00	145	ABC BANK		315.00	12/15/2018	WITHDRAWAL	5.00	146	ABC BANK		310.00
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2/1/2019	DEPOSIT	5.00	151	ABC BANK		315.00	2/1/2019	WITHDRAWAL	5.00	152	ABC BANK		310.00
2/15/2019	DEPOSIT	5.00	153	ABC BANK		315.00	2/15/2019	WITHDRAWAL	5.00	154	ABC BANK		310.00

Signed

THOMAS A. WALKER, P.E.



February 9, 1993

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

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

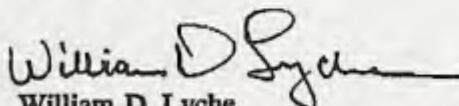
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William D. Lyche
Eagle Ridge Development Corporation


Thomas A. Walker, P.E., C.W.R.E.
W&H Pacific, Inc.

Eagle Crest
P.O. Box 1215
Redmond, OR 97756
(503) 923-0807
05260101owrd-rm.ltr

Concerned Citizens For
Smith Rock

Virgil Harper

Rt. 1 Box 332

Terrabonne OR 97760

ph 548-1126

fax 548-7762

wants copy technical review

on G 12905

Sent 5/5/93

(G 12429 has permit) ^{Feb}

4/9/93

September 14, 1992

The Honorable Dick Maudlin, Chair
Deschutes County Commission
1130 NW Harriman
Bend, OR 97701

WATER
RESOURCES
DEPARTMENT

The Honorable Daniel Ahern, Chair
Jefferson County Commission
75 SE C St.
Madras, OR 97741

The Honorable Lynn Lundquist, Chair
Crook County Commission
Crook County Courthouse
300 E. Third St.
Prineville, OR 97754

Dear Commissioners:

We are writing to you jointly to bring to your attention a matter of growing concern—the condition of the groundwater resource in central Oregon—and to ask for your help.

Increasingly, the Water Resources Commission and Department are faced with very difficult questions surrounding applications for groundwater use permits in rapidly developing areas. Under state law, the Commission is charged with: assuring an adequate and safe supply of groundwater for human consumption; determining and maintaining stable groundwater levels; and preventing depletion, impairment and waste of groundwater. [ORS 537.525]

The Commission's approval of a request to use groundwater is predicated on these statutory mandates. Historically, when use of the state's groundwater resource was, in relative terms, small, the risk of depleting aquifers through permit issuance was correspondingly low. With Oregon growing at twice the national rate, 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 the Commission's recent experience with applications for groundwater use for destination resorts in central Oregon. To the extent these developments represent demands not unlike that of small cities, the potential impacts on the groundwater resource can be great. In addition, impacts on nearby established users of the



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

resource, as well as on surrounding creeks and springs can also be significant. All of these issues were brought to the Commission by concerned citizens in the public interest review process. The issues were not easily resolved. Various interests presented differing, often conflicting, interpretations of project impacts from exercise of the proposed groundwater rights. Ultimately, the Commission made its decisions based on the best available, albeit limited, information. With ever-increasing requests and without more data, however, at some point a reasonable doubt is reached whether increased groundwater use is sustainable. We are very near, if not at, that point in many areas of the state, including parts of central Oregon.

The groundwater information base will never be perfect. However, in many areas it must improve substantially before the Commission can both issue additional permits and meet its obligation to protect the groundwater resource. Through its statewide Groundwater Assessment Program, the Water Resources Department is attempting to establish the extent and capacity of the state's aquifers. Given staff and resource constraints, however, sufficient data may not be available for sound decision-making for some time to come. 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.

We want to convey to you as clearly as we can that it is no longer safe to assume that obtaining a groundwater use permit is a formality. Without better information, it is possible that permit denials will be more common than permit approvals. Such actions on our part could, of course, have major impacts on local government actions as you seek to implement your comprehensive land use plans. Accordingly, I hope we can build a strong state/local partnership to address our mutual research and planning needs. Some initial ideas on how counties might participate in the process include supporting funding for or cooperating in comprehensive groundwater investigations, requiring additional groundwater analysis and information for certain land use decisions, or phasing development projects contingent upon results from groundwater monitoring. The recently initiated dialogue among Bend, Deschutes County, and the U.S. Geological Survey about a potential groundwater study may offer an especially timely opportunity to combine local, state, and federal resources to generate the information we all need.

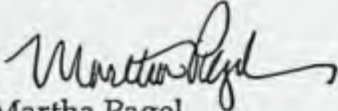
We appreciate the interest that you and the citizens you represent have shown in water resources to date. We would like to build on that interest by working with you to move from some of the general concepts in this letter to more specific on-

Commissioners Maudlin, Ahern, Lundquist
September 14, 1992
Page 3

the-ground solutions. The Water Resources Department would welcome the opportunity to meet with you individually, or in a more regional forum, to discuss specific water resource data generation options or water management alternatives.

If you have any questions or suggestions for follow-through, please contact Fred Lissner, manager of the Department's Groundwater and Hydrology Section (378-8455, ext. 204). Thank you for your consideration.

Sincerely,


Martha Pagel
Director

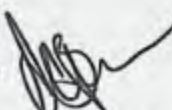
rab:RAB

cc: George J. Read, Planning Director, Deschutes County
Bill Zelenka, Planning Director, Crook County
Chuck McGraw, Planning Director, Jefferson County
Denny Newell, Executive Director, Central Oregon Intergovernmental Council
Bill Blosser, Chair, LCDC
Senator Peter Brockman
Senator Wayne Fawbush
Senator Eugene Timms
Representative Bev Clarno
Representative Mike Nelson
Representative Bob Pickard
Fred Lissner, WRD, Manager, Groundwater and Hydrology Section
Bob Main, WRD, Manager, South Central Region
Rick Bastasch, WRD, Manager, Water Resources Coordination Group

MEMORANDUM

TO: Fred Lissner

DATE: July 6, 1992

FROM: Steve Brown 

RE: Division 9 review, Application G-12905
Eagle Ridge Development Corporation

Please expedite a review of Application G-12905.

To Support Services:

7/6/92

- ① take file to fiscal and get a copy of the receipt for file.
- ② have fiscal note fees paid on file.
- ③ place in Fred's "in urgent basket"



STATE OF OREGON
RECEIPT # **86130** WATER RESOURCES DEPARTMENT
3850 PORTLAND ROAD NE
SALEM, OR 97310
378-8455/378-8130 (FAX)

RECEIVED FROM: Eagle Creek Partners
BY: TD Affiliates

APPLICATION 12905
PERMIT
TRANSFER

CASH: ☐ CHECK: # 24-12 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 450.00

01-00-0 WRD MISC CASH ACCT

842.010 ADJUDICATIONS \$
831.087 PUBLICATIONS/MAPS \$
830.650 PARKING FEES Name/month \$
OTHER: (IDENTIFY) \$

02-00-0 FEDERAL FUNDS

OTHER: (IDENTIFY) \$

03-00-0 WRD OPERATING ACCT

MISCELLANEOUS:

840.001 COPY FEES \$
850.200 RESEARCH FEES \$
880.109 MISC REVENUE: (IDENTIFY) \$
520.000 OTHER (P-6): (IDENTIFY) \$

WATER RIGHTS:

	EXAM FEE	RECORD FEE
842.001 SURFACE WATER	\$	842.002 \$
842.003 GROUND WATER	\$ <u>500.00</u>	842.004 \$ <u>250.00</u>
842.005 TRANSFER	\$	842.006 \$
	EXAM FEE	LICENSE FEE
842.022 WELL DRILL CONSTRUCTOR	\$	842.023 \$
842.016 WELL DRILL OPERATOR	\$	842.019 \$
LANDOWNER'S PERMIT		842.024 \$

06-00-0 WELL CONST START FEE

842.013 WELL CONST START FEE \$
MONITORING WELLS \$

CARD #	
CARD #	

45-00-0 LOTTERY PROCEEDS

864.000 LOTTERY PROCEEDS \$

07-00-0 HYDRO ACTIVITY

LIC NUMBER

842.011 POWER LICENSE FEE(FWWRD) \$
842.115 HYDRO LICENSE FEE(FWWRD) \$

HYDRO APPLICATION \$

RECEIPT # **86130**

DATED: 5-4-11 BY: _____



REDMOND SCHOOL DISTRICT

716 WEST EVERGREEN • REDMOND, OREGON 97738-2294 • (503) 923-5437

RECEIVED

MAY 29 1992

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

WATER RESOURCES DEPT.
SALEM, OREGON

Re: EAGLE RIDGE DEVELOPMENT CORPORATION
WATER RIGHTS APPROPRIATION APPLICATION
OWRD File No. G-12905
526-0101

Dear Steve:

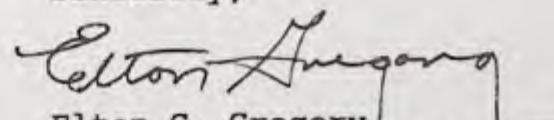
I understand that a groundwater appropriation application has been filed to allow for expansion of the Eagle Crest Resort. I'm sure your workload is substantial and in all probability requires a certain amount of prioritizing of applications. I believe the Eagle Crest application is of significant importance and impact upon the Redmond area. I would urge your review and approval at the earliest date.

The existing Eagle Crest Resort has been a successful and critical contributor to the economy of central Oregon. The proposed expansion will substantially increase the Redmond School District's assessed valuation. Redmond School District also enjoys a comprehensive business/education partnership with Eagle Crest Resort. The resort provides direct financial assistance and personnel volunteers to student mentor programs, the Teens and Tots Center, and Governor Goldschmidt's S.M.A.R.T. reading program.

I have consistently supported Eagle Crest in the procurement of necessary land use approvals. Delays associated with land use approvals have already impacted this project and further delays are threatening the project. An early approval of water right applications is necessary to assure a reasonable timetable for the expansion program.

Ballot Measure 5 has created a critical need for additional assessed valuation for Redmond School District. Because of this critical economic impact on the Redmond community, I am urging you to process and approve the Eagle Crest water appropriation application as soon as possible. Thank you for your consideration.

Sincerely,


Elton G. Gregory
Superintendent of Schools