

G-

Application No. G16403

Permit No. G-16243

Certificate No. _____

FEES PAID

Date	Amount	Receipt No.
3-7-05	500.00	73143
6/22/07	380.00	88261
9-14-12	500.00	106855
	Cert. Fee	

Name G-16403
By RON ROBINSON JR
Address 4-R EQUIPMENT
PO BOX 5006
BEND OR 97708

Date

DENIED _____

MISFILED _____

WITHDRAWN _____

CANCELLED _____

Volume | Page

FEES REFUNDED

Date	Amount	Receipt No.
11/19/07	100.00	88261 JV

Priority _____

County _____ WM# _____

RELATED FILES

ASSIGNMENTS

Date	To Whom	Address

DEVELOPMENT

Date

Completion 10-1-2012

Extended to 10-1-2022

Final Proof received _____

Proposed Cert. Mailed _____

REMARKS _____

MAP LOCATION _____

TRK # 7022 0410 0000 7895 4681

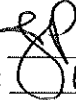
Mailing List for Extension FO Copies

FO Date: June 18, 2026

Application: G-16403

Permit: G-16243

Copies Mailed

By: 

On: 06-18-26

Original mailed to Applicant:

4-R Equipment
P.O. Box 1699
Redmond, OR 97756

Copies sent to:

1. WRD - App. File G-16403/ Permit G-16243

Fee paid as specified under ORS 536.050 to receive copy:

2. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

3. WRD - Sarah Henderson, mitigation
4. WRD - Watermaster District 11, Jeremy Giffin
5. WRD - SCR Regional Manager, Tom Skiles

CASEWORKER: JDP

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for)
Permit G-16243, Water Right Application G-16403, in the)
name of 4-R Equipment)

**FINAL ORDER
TO DENY**

Permit Information

Application: G-16403
Permit: G-16243
Basin: 5 – Deschutes / Watermaster District 11
Date of Priority: March 7, 2005
Source of Water: Well 1 in Dry River Basin
Purpose or Use: industrial use (gravel mining)
Maximum Rate: 1.0 cubic foot per second (cfs),
further limited to 6.0 acre feet per year

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

The cancelation of the permit is being processed in accordance with ORS 537.260.

Appeal Rights

This final order is subject to judicial review by the Court of Appeals under ORS 183.482. Any petition for judicial review must be filed within the 60-day time period specified by ORS 183.482(1). Pursuant to ORS 536.075 and OAR 137-003-0675, you may petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Application History

Permit G-16243 was issued by the Department on November 1, 2007. The permit called for complete application of water to beneficial use by October 1, 2012. The most recent Extension of Time specified completion of construction and complete application of the water was to be made by 2022. On September 23, 2025, 4-R Equipment submitted to the Department an Application for Extension of Time for Permit G-16243. In accordance with OAR 690-315-0050(2), on January 20, 2026, the Department issued and sent by certified mail a Proposed Final Order proposing to deny the time to fully apply water to beneficial use to October 1, 2035, and to cancel the permit. The protest period closed March 6, 2026, in accordance with OAR 690-315-0060(1). No protest was filed.

FINDINGS OF FACT

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated January 20, 2026.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, any comments received, and information within the file, the permit may not be extended.

CONCLUSION OF LAW

The applicant has not demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

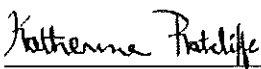
Proof of appropriation of water under the terms and conditions of the permit has not been made to the satisfaction of the Water Resources Director as required under ORS 537.260.

ORDER

The extension of time for Application G-16403, Permit G-16243, is therefore denied.

Application G-16403, Permit G-16243, is hereby canceled, and is no longer in force or effect.

DATED: June 18, 2026



Katherine Ratcliffe
Water Right Services Division Administrator, for
Ivan Gall, Director
Oregon Water Resources Department

-
- If you have any questions about statements contained in this document, please contact the Permit Extension Specialist at (503) 979-3213.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-

Mailing List for Extension PFO Copies

PFO Date: February 17, 2026

Copies Mailed

Application: G-16403

By: TM

Permit: G-16243

On: 2.17.26

Original mailed to Applicant:

Certified Mail Tracking #: 9589 0710 5270 2376 3993 65

4-R Equipment

P.O. Box 1699

Redmond, OR 97756

Copies sent to:

1. WRD - App. File G-16403/ Permit G-16243
2. Water Right Solutions, ATTN Bryce Withers

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving via e-mail (10 AM Tuesday of signature date)
(DONE BY EXTENSION SPECIALIST)

4. WRD - Watermaster District 11, Jeremy Giffin
5. WRD - SCR Regional Manager, Carolyn Sufit

CASEWORKER: JDP

Oregon Water Resources Department
Water Right Services Division

Application for Extension of Time

In the Matter of the Application for an Extension of Time for	)	PROPOSED
Permit G-16243, Water Right Application G-16403, in the	)	FINAL ORDER
name of 4-R Equipment	)	TO DENY

Permit Information

Application:	G-16403
Permit:	G-16243
Basin:	5 – Deschutes / Watermaster District 11
Date of Priority:	March 7, 2005
Source of Water:	Well 1 in Dry River Basin
Purpose or Use:	industrial use (gravel mining)
Maximum Rate:	1.0 cubic foot per second (cfs), further limited to 6.0 acre feet per year

This Extension of Time request is being processed in accordance with Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative Rule Chapter 690, Division 315.

In Summary, the Department proposes to:

- Deny an extension of time to apply water to full beneficial use from October 1, 2022, to October 1, 2035.
- Cancel Permit G-16243.

ACRONYM QUICK REFERENCE

Application – Application for Extension of Time
Department – Oregon Department of Water Resources
FOF – Finding of Fact
PFO – Proposed Final Order
cfs – cubic foot per second

AUTHORITY

Generally, see ORS 537.630 and OAR Chapter 690 Division 315.

ORS 537.630(2) provides in pertinent part that the Oregon Water Resources Department (Department) for good cause shown shall order and allow an extension of time within which irrigation or other works shall be completed or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefor; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides that in order to approve an application for an extension of time to complete construction or apply water to full beneficial use, the Department shall make the findings in OAR 690-315-0040(1) including a finding that there is “good cause” to approve the extension. OAR 690-315-0040(2)-(4) contains the factors that the Department must consider to make findings that support a “good cause” determination.

ORS 537.260(1) provides that the Oregon Water Resources Department may cancel a permit after 60 days notice by registered mail or by certified mail with return receipt, when proof of completion of the appropriation has not been submitted.

FINDINGS OF FACT

1. On November 1, 2007, Permit G-16243 was issued by the Department. The permit authorizes the use of up to 1.0 cfs of water from Well 1 in Dry River Basin for industrial use (gravel mining) acres. The permit specified complete application of water was to be made on or before October 1, 2012.
2. One prior permit extension has been granted for Permit G-16243. The extension request resulted in the completion dates for full application of water being extended from October 1, 2012, to October 1, 2022.
3. On September 23, 2025, the permit holder submitted an “Application for Extension of Time” (Application) to the Department, requesting time to apply water to full beneficial use under the terms and conditions of Permit G-16243 be extended from October 1, 2022, to October 1, 2035.

4. On September 30, 2025, notification of the Application for Extension of Time for G-16243 was published in the Department's Public Notice. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

In order to approve an Application for an Extension of Time to complete construction and/or apply water to full beneficial use pursuant to ORS 537.230 or 537.630, or to begin construction, pursuant to ORS 537.248, the Department must make the findings in OAR 690-315-0040(1)(a) – (d).

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

5. On September 23, 2025, the Department received a completed Application and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

ORS 537.630 (2) states in part that "the holder of a permit issued pursuant to ORS 537.625 shall prosecute the construction of a well or other means of developing and securing the ground water with reasonable diligence and complete the construction within a reasonable time fixed in the permit by the Water Resources Department, not to exceed five years after the date of approval of the application. However, the department, for good cause shown, shall order and allow an extension of time, including an extension beyond the five-year period, for the completion of the well or other means of developing and securing the ground water or for complete application of water to beneficial use" [emphasis added]. Permit G-16243 was issued pursuant to ORS 537.625. The application states that construction of the well has not yet begun.

OAR 690-315-0040(5) states "if the extension is requested pursuant to OAR 537.230 or 537.630, the applicant must have begun actual construction work, as defined in OAR 690-315-0020(3)(d)(A) and (B), during the period required by statute. If the Department finds the applicant did not begin construction by that date, the permit cannot be extended, and the Department may begin cancellation proceeding pursuant to ORS 537.260 or 537.410."

6. The Application provides no evidence of any action taken to begin construction authorized under this permit, being October 1, 2012, or during the time authorized by the extension of time authorized to October 1, 2022.

The Department cannot find that construction of the well authorized under Permit G-16243 began (was prosecuted) within five years of permit issuance, being November 1, 2007 to November 1, 2012, the date established pursuant to ORS 537.630, or by the date authorized for complete application of water by the extension of time, being October 1, 2022.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is "good cause" to approve the extension. In making a "good cause" finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

In order to make a finding of "good cause" to approve the extension, the Department shall consider whether the applicant has demonstrated "reasonable diligence" in previous performance under the permit. OAR 690-315-0040(2)(a). In determining "reasonable diligence", the Department shall consider, but is not limited to, the following factors: a) The amount of construction completed within the time allowed in the permit or previous extension; b) The amount of beneficial use made of the water during the permit or previous extension time limits; c) Water right holder conformance with the permit or previous extension conditions; and d) Financial investments made toward developing the beneficial use of water.

Amount of Construction OAR 690-315-0040(3)(a)

The amount of construction completed within the time allowed in the permit an previous extension.¹

7. Prior to permit issuance, test wells and test pits were constructed.
8. During the time authorized for development under the permit ending October 1, 2012, no work towards the development of the water system was accomplished.
9. During the most recent extension period, being from October 1, 2012, to October 1, 2022, no work towards the development of the water system was accomplished.
10. Since October 1, 2022, no work towards the development of the water system was accomplished.

The Application does not provide evidence of progress of physical work made towards completion of the water system. The Department cannot find that the permit holder has demonstrated reasonable diligence towards the complete application of water to a beneficial use under G-16243..

Compliance with Conditions /OAR 690-315-0040(3)(c)

The water right permit holder's conformance with the permit and previous extension conditions.

11. The Department has considered the permit holder's compliance with conditions, and has identified the following concerns: (1) the record does not show that a meter or other suitable measuring device has been installed, (2) the required March static water level measurements have not been received by the Department, and (3) the required Progress Report due October 1, 2018, was not submitted until September 23, 2025. The Department recognizes that compliance with the conditions requiring the installation of a meter and submittal of march static water level measurements have not been demonstrated because the well authorized by the permit has not been constructed.

¹ "Actual Construction" is defined in OAR 690-315-0020(3)(d)(A)and(B) as physical work performed toward completion of the water system which demonstrates the water right permit holder's good faith and intention to complete the project with reasonable diligence. Actual construction does not include planning a diversion system, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land or planting crops.

The Department has determined that the permit holder has not demonstrated compliance with all permit conditions as required by Permit G-16243.

Beneficial Use of Water OAR [690-315-0040(3)(b)]

The amount of beneficial use made of the water during the permit or previous extension conditions.

12. No water has been appropriated from the well.
13. Delay of beneficial use of water under Permit G-16243 was caused, in part, because the well authorized for use under the permit has not been constructed.

The Department has determined that Beneficial use of water has not yet been demonstrated under this permit because no water has been appropriated, and not all permit conditions were satisfied by October 1, 2022.

Financial Investments to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b),(3)(d),(4)(d)]

14. The Application identifies an investment of \$168,400 has been made. These costs include the costs associated with legal and professional work associated with land use permitting and appeals, and towards the construction of test pits and test wells prior to permit issuance, and are not considered investments towards the construction of the water system and application of water to the beneficial use. After deducting these costs, no investment has been made towards the construction of the water system and the application of water to the beneficial use.

The Department has determined that the permit holder has not made an investment towards the development of the water system, which does not provide evidence of reasonable diligence towards the complete application of water to a beneficial use.

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Application provides evidence that no work has been accomplished towards completion of the water system; the permit holder has not demonstrated compliance with permit conditions, and; beneficial use of water has not been demonstrated. The Department has determined the applicant has not demonstrated reasonable diligence in previous performance under Permit G-16243.

The Market and Present Demands for Water [OAR 690-315-0040(4)(a-f)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

- *(a) The amount of water available to satisfy other affected water rights and scenic*

waterway flows;

- *(b) Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d);*
- *(c) The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife;*
- *(d) Economic investment in the project to date;*
- *(e) Other economic interests dependent on completion of the project; and*
- *(f) Other factors relevant to the determination of the market and present demands for water and power.*

OAR 690-315-0040(4)(a)

The amount of water available to satisfy other affected water rights and scenic waterway flows.

15. A review of the amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-16243; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined when an Application for a new water right is submitted.

OAR 690-315-0040(4)(b)

Special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d).

16. The point of appropriation for Permit G-16243, located within the Dry River Basin, is located within the Upper Deschutes Groundwater Mitigation zone.
17. Dry River is located above Deschutes Scenic Waterway located within or above any state or federal scenic waterway.
18. The point of appropriation is not in an area listed by the Department of Environmental Quality as a water quality limited stream.

OAR 690-315-0040(4)(c)

The habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife.

19. Dry River is located within an area ranked “moderate” for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife.

OAR 690-315-0040(4)(d)

Economic interests dependent on completion of the project.

20. No investment has been made in the project.

OAR 690-315-0040(4)(e)

Other economic interests dependent on completion of the project.

21. The Application does not identify any specific economic interest directly dependent on the completion of the project.

OAR 690-315-0040(4)(f)

Other factors relevant to the determination of the market and present demand for water and power.

22. No other factors relevant to the determination of the market and present demand for water and power have been identified.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

23. The Application states; “once the mine is completed, the business income from mineral sales over time will provide a fair and reasonable return on our investment.”

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

24. Delay in the development of this project was due to a need to pursue zoning changes, and the subsequent appeals to the change. According to the Application these proceeding occurred between 2007 – 2015. The Application included a copy of Ordinance No. 2015-022, approving the zoning change, which became effective November 23, 2015. The permit holder is still pursuing the “required Site Plan Review for Surface Mining Operation.”

The Department has considered the delays in the development of the authorized use that may have been caused by land use issues, however, ORS 537.630 does not provide for the ability to authorize an extension of time when construction of the well has not started within five years from the date of permit issuance.

Unforeseen Events [OAR 690-315-0040(2)(h)]

25. The Application identifies the COVID-19 Pandemic as causing significant disruption during the most recent extension period.

Denial of the Extension Will Result in Undue Hardship [OAR 690-315-0040(2)(i)]

26. The Application asserts an undue hardship would be the result of a denial because the permit holder “will be unable to construct the mine and develop the water right as part of

the project, which will cause a significant hardship in the form of a substantial financial loss due to sunk costs applied to the project to date.”

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

27. The Application does not provide evidence of construction of the authorized well, or of any construction of the water system necessary to apply water to beneficial use under the permit. The Department cannot find good faith of the appropriator under Permit G-16243.

Based on Findings of Fact 6, 7, 8, 9, 10, 11, 12, 13, 14, and 24 above, the Department finds that the Applicant has not demonstrated good faith.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

28. As of September 23, 2025, the remaining work to be completed consists of starting construction of the well and water system, meeting all permit conditions, and applying water to full beneficial use.

The Department cannot find that the applicant can complete the project or apply water to full beneficial use within the time requested for the extension because the applicant did not begin construction within the time allowed in the permit or during the previous extension period.

Good Cause [OAR 690-315-0040(1)(d)]

The Department must find that there is “good cause” to approve the extension. In making a “good cause” finding, the Department shall consider the requirements set forth under OAR 690-315-0040(2).

The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has not shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).

CONCLUSIONS OF LAW

1. The permit holder has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
2. The permit holder has not complied with the time allowed for construction work under

the permit pursuant to ORS 537.630 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

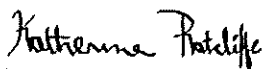
3. The Application established that there has been no construction, no financial investment or reasonable diligence toward developing the project during the most recent extension of time period, being 2012, to 2022. The permit holder has not shown that good cause exists for an extension of time to complete construction and apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).
4. The Department has provided notice pursuant ORS 537.260 to begin cancelation of the permit.

PROPOSED ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Deny the time to apply water to beneficial use under Permit G-16243 from October 1, 2022, to October 1, 2035.

DATED: February 17, 2026



Katherine Ratcliffe
Water Right Services Division Administrator, for
Ivan Gall, Director
Oregon Water Resources Department

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

Protests

Pursuant to OAR 690-315-0060(1), the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. Protests must be received by the Water Resources Department no later than April 3, 2026, at this address: Oregon Water Resources Department, Water Right Services Division, 725 Summer St NE, Suite A, Salem, OR 97301-1266. Protests may not be submitted by electronic mail. OAR 690-002-0025(3).

Protests must be in writing and include all of the following:

- The name, address, and telephone number of the protestant
- A detailed description of the protestant's interest in the proposed final order, and, if the protestant claims to represent the public interest, a precise statement of the public interest represented
- A detailed description of how the action proposed in the proposed final order would impair or be detrimental to the protestant's interest
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency
- If the applicant protests, a statement of whether a hearing is requested
- Citation of legal authority supporting the protestant, if known
- Proof of service of the protest on the water right permit holder, if protestant is other than the water right permit holder, and
- If you are the applicant, the protest fee of \$720 required by ORS 536.050; and
- If you are not the applicant, the protest fee of \$1,425 required by ORS 536.050.

Within 60 days after the close of the period for requesting a contested case hearing, the Director shall either issue a final order on the extension request, or schedule a contested case hearing if a protest has been submitted, and, upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or, the applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests. The hearing will be conducted as provided in Oregon Revised Statutes (ORS) Chapter 183, and Oregon Administrative Rules (OAR) 137-003-0501 to 137-003-0700.

If the applicant does not request a hearing within 30 days after the close of the protest period, or if the request for a hearing is withdrawn, or the Department or the administrative law judge is notified that the protestant will not appear, or the protestant fails to appear, at a scheduled hearing, the Director may issue a Final Order by default. If the Director issues a Final Order by default, the Department designates the relevant portions of its files on this matter, including all materials submitted relating to this matter, as the record for purpose of proving a *prima facie* case upon default.

A party may be represented by an attorney at the hearing. Legal aid organizations may be able to assist a party with limited financial resources. Generally, partnerships, corporations, associations, governmental subdivisions or public or private organizations are represented by an attorney. However, consistent with OAR 690-002-0020 and OAR 137-003-0555, an agency representative

Notice Regarding Servicemembers: Active-duty service members have a right to stay proceedings under the federal Servicemembers Civil Relief Act. For more information contact the Oregon State Bar at 800-452-8260, the Oregon Military Department at 971-453-1175, or the nearest United States Armed Forces Legal Assistance Office through <http://legalassistance.law.af.mil>.

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Application: G-16403 Permit: G-16243
Public Notice Route Slip ... New Application Extension of Time
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

Applicant/Permit Holder(s) Ronald Robinson, JR
4-R Equipment, LLC
PO Box 1699
Redmond OR 97756

Proposed Completion Date: 10-1-2035

☐ WRIG...Money Receipted on: 9-23-25

☐ Extension Specialist ...

☐ Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

☒ Tonya Miller...

☒ Recent Assignment (Check WRIS for Update)

☒ Publish on Public Notice (initial 30-day comment): Date of notice 9.30.25

☒ Update WRIS Database

☒ In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.

☒ In the "Ext Filed" field... Enter the date the Extension Application was received.

☒ Yes or ☐ No: Return file to Extension Specialist after PN returned 9.29.25

NOTES:



Oregon

Tina Kotek, Governor

Water Resources Department

North Mall Office Building

725 Summer St NE, Suite A

Salem, OR 97301

Phone 503 986-0900

Fax 503 986-0904

www.oregon.gov/owrd

September 29, 2025

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: G-16403 (Permit G-16243)**. Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Jeffrey Pierceall at (503) 979-3213. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: www.wrd.state.or.us.

STATE OF OREGON
WATER RESOURCES DEPARTMENT

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

RECEIPT # 146089

INVOICE # _____

RECEIVED FROM: Ken Robinson, Jr
BY: _____

APPLICATION	<u>G-16403</u>
PERMIT	
TRANSFER	

CASH: ☐ CHECK:# 5876 OTHER: (IDENTIFY) ☐

TOTAL REC'D \$ 1,170.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407	COPIES	\$
	OTHER: (IDENTIFY)	\$
0243	I/S Lease	
0244	Muni Water Mgmt. Plan	
0245	Cons. Water	

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407	COPY & TAPE FEES	\$
0410	RESEARCH FEES	\$
0408	MISC REVENUE: (IDENTIFY)	\$
TC162	DEPOSIT LIAB. (IDENTIFY)	\$
0240	EXTENSION OF TIME	\$ <u>1,170.00</u>

WATER RIGHTS:

0201	SURFACE WATER	EXAM FEE	0202	RECORD FEE
0203	GROUND WATER	\$	0204	\$
0205	TRANSFER	\$		

WELL CONSTRUCTION

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

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND	TITLE	
OBJ. CODE	VENDOR #	
DESCRIPTION		\$

RECEIPT: 146089 DATED: 9-23-25 BY: Carol D. Miller

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

**Application for
Extension of Time
for a Water Right Permit
(NON-Municipal/ NON-Quasi-Municipal)**

OREGON Oregon Water Resources Department
 725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.oregon.gov/OWRD
WATER RESOURCES
DEPARTMENT

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Criteria for a Permit Extension of Time

The Department can accept requests for an extension of time on permits to (1) complete construction, and/or to (2) apply water to beneficial use.

In order to approve a permit extension request the Department must be able to find:

1) Construction has begun:

A. For Groundwater Permits

Construction of the well(s), *authorized by the permit*, began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

B. For Surface Water or Reservoir Permits

Construction of the water system began within 5 years of the date the permit was issued or by the actual construction date specified in the permit.

The Department will also confirm that:

- 2) If required, a fish screen, fish passage or fish by-pass device was installed before or prior to diversion of any water. An exception to the need to confirm installation prior to diversion of any water would be a waiver submitted to the Department from ODFW stating that a fish screen, fish passage or fish by-pass device was not required, provided your permit allows for a waiver.

If you have questions, please call the Department at (503)-986-0900 and ask to speak with a permit extension specialist.

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT
***A separate extension application must be submitted for each permit as per
OAR 690-315-0020(2).***

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I, Ronald Robinson Jr., member, 4-R Equipment, LLC
NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

<u>PO Box 1699</u>	<u>Redmond</u>	<u>OR</u>	<u>97756</u>
ADDRESS	CITY	STATE	ZIP
<u>541-480-3706</u>	<u>ronrobinsonjr@yahoo.com</u>		
PHONE	E-MAIL ADDRESS		

the permit holder of: Application Number G-16403

Permit Number G-16243
[OAR 690-315-0020(3)(b)]

do hereby request that the date by which the water development will be completed and water put to full beneficial use, which time now expires on Month: 10 Day: 1 Year: 2022, be extended to October 1, 2035, [OAR 690-315-0020(3)(i)]

I am the permit holder, and may apply for an extension of time under this permit. I understand that false or misleading statements in this extension application are grounds for OWRD to suspend processing of the request and/or reason to deny the extension.

<u>Ronald Robinson Jr.</u>	<u>09/19/2025</u>
Signature	Date
<u>Ronald Robinson Jr.</u>	<u>Member, 4-R Equipment, LLC</u>
Printed Name	Title
The agent below is authorized to represent the applicant in all matters relating to THIS application.	
<u>Water Right Services, LLC</u>	<u>johnshort@usa.com & brycewrs@gmail.com 541-389-2837</u>
Authorized Agent (Print Agent Name)	Agent contact
	<u>Permit Holder Initials</u>

Before submitting your Application for Extension of Time, make sure the following items are included:

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- This completed Application for Extension of Time.
- Statutory fee of \$1,170
- Signature page (Second page of this Application for Extension of Time).
- Letter granting an agent authority to act on behalf of the permit holder (*if applicable*)
- All supporting documentation and/or evidence referenced in the Application for Extension of Time. (ODFW Fish screen approval or waiver, contract for stored water, etc)

MAIL COMPLETED APPLICATION
along with the Supporting documents and/ or evidence and correct fee to:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

GENERAL TIPS:

- Permit holders of **municipal or quasi-municipal water use permits DO NOT use this form**. The correct form is APPLICATION FOR EXTENSION OF TIME FOR MUNICIPAL AND QUASI-MUNICIPAL WATER USE PERMITS.
- Request the reasonable amount of time necessary to fully complete construction of the water project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate APPLICATION FOR EXTENSION OF TIME must be submitted for each permit. OAR 690-315-0020(2).
- Permit extensions are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at the State of Oregon, Secretary of State Website. To be granted an extension of time, the Department must make four specific findings; 1) the application is complete, 2) construction of the water system began within the time specified in the permit and applicable statute, 3) there is good cause, and 4) the project can be completed within the time being requested. If the Department cannot make all four findings, the extension of time cannot be approved.
- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 690-315-0020(3)(n).
- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights Services Division.

- An Application for an Extension of Time will be reviewed for completeness. A response is required for each item contained in the application. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- **The water right permit.** If needed, a copy of the water right permit can be downloaded from the Department's Website, or, a copy of the permit may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- **Previous Applications and Orders.** Copies of previous applications and orders that may inform the completion of the Application for Extension of Time, if available, may be downloaded from the Department's Website. **NOTE: If the document requested is not available on the Department's website, you may be required to submit a Public Record Request.**
- **Documentation which demonstrates compliance with permit conditions** (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Questions to complete this application for an Extension of Time

Please see the instruction sheet to help you answer these items.

1. **Beginning Construction within required deadlines.** OAR 690-315-0020(3)(d)

For Groundwater Permits

Has construction of the point of appropriation (well) authorized under this permit begun?

☐ Yes ☒ No

Date construction began Month: _____ Day: _____ Year: _____

Details of construction and attach documentation: _____

For Surface/Reservoir Permit

Has construction of the water system begun? ☐ Yes ☐ No

Date construction began Month: _____ Day: _____ Year: _____

Details of construction and attach documentation: _____

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2a. Permits typically contain standard or special conditions that must be fully satisfied to lawfully develop and use permitted water. Review the permit subject to this extension to identify which of the conditions listed in the 2nd column are contained within it. Using the extra row labeled "other" to specify any other additional conditions included in the permit, or specified in a final order approving a permit amendment or prior extension of time. In the 1st column check the box for each condition (row) identified as relevant. In the 3rd column check "Yes" if you have completed or met the permit condition. Check "No" if the condition is not yet satisfied. In the 4th column, give the date when the condition was satisfied or will be satisfied. Attach any pertinent documentation. Note: a pump test condition does not need to be addressed here however; you must submit the results of the test to the Department for approval prior to certification.

CHART-A

Permit Conditions in this Permit		Have Completed or Met?	Date satisfied/ or will be satisfied
Checkbox	Ground water Check those included on this permit		
☒	Installation of a meter/totalizing flow meter	☐ Yes ☒ No	Upon Construction of Well
☐	Submittal of annual water usage report	☐ Yes ☐ No	
☒	Submittal of static water level measurements in the month required	☐ Yes ☒ No	Upon Construction of Well
☐		☐ Yes ☐ No	
☐	Special well construction standards	☐ Yes ☐ No	
☐	Submittal of a monitoring plan	☐ Yes ☐ No	
☐	Well ID tag assigned and installed:	☐ Yes ☐ No	
☒	Other (Specify): Ground Water Mitigation Condition	☒ Yes ☐ No	5/21/2007
☐	Other (Specify):	☐ Yes ☐ No	
Surface Water or Reservoir			
☐	Installation of a meter/ totalizing flow meter	☐ Yes ☐ No	
☐	Submittal of annual water use report	☐ Yes ☐ No	
☐	Installation of a fish screen	☐ Yes ☐ No	
☐	Installation of a fish by-pass device	☐ Yes ☐ No	
☐	Installation of a fish passage	☐ Yes ☐ No	
☐	Installation of an outlet gate/pipe/ conduit	☐ Yes ☐ No	
☐	Submittal of a letter from ODFW that fish screen, fish by-pass device, and or fish passage is not required	☐ Yes ☐ No	
☐	Submit as-built plans and specification	☐ Yes ☐ No	
☐	Submittal of a letter from an engineer prior to storage	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	
☐	Other (Specify):	☐ Yes ☐ No	

2b. If you have identified that you have NOT complied with Permit conditions, explain the reasons why and indicate a date certain, when you will be in compliance.

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The Totalizing Flowmeter condition and March Static Water Level Measurement requirements have not been met because the well has not yet been drilled. Both conditions will be met following the construction of the well. The well has not been constructed due to ongoing Land Use Appeals, see below for further explanation.

[OAR 690-315-0020(3)(e)]

3. Provide evidence of physical work made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-B); and if applicable, within the time period of the most recent extension granted (CHART-C). CHART-B (below) must be completed for all Application for Extension of Time requests. *Use chronological order. Itemize each work item, and do not combine multiple work actions in one area. (Planning, formulating a business plan, securing financing, letting contracts, purchasing but not installing equipment, surveying, clearing land, or planting crops is not considered work in the development of the water system. Work accomplished under other water rights may not be considered work under this permit.)*

CHART-B

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. well drilled.</i>	COST*
2003-2004	Test wells / test pits / engineering – see DESC 56538 through DESC 56571	\$73,500
2004-2007	Legal and Professional Work for land use permitting / LUBA appeals	\$23,250
DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER <i>List work/actions done during the permitted time period.</i>	COST*
11/1/2007	Date the permit was signed - find date above signature on last page of permit.	
2008-2012	Legal and Professional Work for land use permitting / LUBA appeals	\$24,250
10/1/2012	Date the permit specified complete application of water to the use shall be made- all permits contain this date.	
DATE	WORK ACCOMPLISHED AFTER the date the permit specified complete application of water and prior to any previous extension order <i>COMPLETE ONLY IF THIS IS YOUR 1st APPLICATION FOR AN EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
Total Cost for Chart-B		\$121,000

* If exact cost is not known, you must provide your best estimate.

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4. If this is not your 1st Application for Extension of Time request, fill out CHART-C below in addition to CHART-B above. Use *chronological order*.

CHART-C

DATE	WORK ACCOMPLISHED <u>DURING</u> THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
10/1/2012	"Extended From" date for complete application of water used in the most recent Final Order on Extension of Time.	
2012-2022	Legal and Professional Fees for Land Use Appeals and Permitting	\$47,400
10/1/2022	"Extended To" date for complete application of water resulting from the most recent Final Order on Extension of Time.	
DATE	WORK ACCOMPLISHED <u>AFTER</u> THE LAST EXTENSION PERIOD EXPIRED <i>List all work done after the last authorized date for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
Total Cost of Chart-C		\$47,400

* If exact cost is not known, you must provide your best estimate. [OAR 690-315-0020(3)(f)]

5. Cost of project to date: \$168,400
(The total combined cost from CHART-B and CHART-C) [OAR 690-315-0020(f)]

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[OAR 690-315-0020(3)(e)(B)]

Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit made to date.

TIP: Report the rate used to date. Unless full beneficial use has been made, this rate will be less than the rate authorized on the permit.

6. For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

TIP: Report the rate in the same units of measurement as specified in the permit.

Maximum rate used to date = _____ cfs (cubic feet per second) or,

Maximum rate used to date = _____ gpm (gallons per minute) or,

Maximum volume of stored water used to date = _____ AF or,

Maximum volume stored annually to date = _____ AF

7. For Ground Water Permit Extensions (e.g. G-XXXX):

TIP: Include information from ALL wells that pertain to this permit, including drilled wells not currently used.

CHART-D

Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment?	Maximum instantaneous rate used to date from this well - - under this permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
Well #1		Yes ☐ No ☒			Yes ☐ No ☐	0	Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	- -
Total instantaneous rate from all wells utilized under this permit						0		

8. Has a Permit Amendment Application been filed? Yes ☐ No ☒
If yes, identify Transfer No. T-_____

[OAR 690-315-0020(3)(e)(C)]

9. **For Irrigation and Nursery Use Permits Extensions**

Provide the total number of acres irrigated to date under this permit.

a) Total acres irrigated to date: _____

b) List by year, the number of acres irrigated each year since permit issuance.

Year	Acres	Year	Acres	Year	Acres

c) Provide a copy of the application map identifying the acres irrigated.

d) Please specify the number of acres irrigated by each Point of Diversion/Point of Appropriation (POD/POA).

(POD/POA)# _____ Acres _____ (POD/POA) # _____ Acres _____

(POD/POA) # _____ Acres _____ (POD/POA) # _____ Acres _____

[OAR 690-315-0020(3)(i)(j)]

10. In the chart below provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-E

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2025-2032	Continue Land Use Approvals / Permitting	\$50,000
2025-2032	Engineering	\$30,000
2025-2032	Construction of Well / delivery system, & permit conditions	\$120,000
Year: 10/1/2032	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$200,000

[OAR 690-315-0020(3)(g)]

11. Estimated remaining cost to complete the project: \$200,000
(The total cost from CHART-E)

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[OAR 690-315-0020(3)(j)]

12. Provide a summary of your plan to complete construction, meeting all permit conditions and apply the water to beneficial use: (List all tasks or steps needed to complete the project, the date when each task will be completed, and the cost associated with each task; attach additional pages if necessary.)

Our plan to complete our project includes continuing to pursue our land use approvals and complete construction:

- 1-Site Plan Review for Surface Mining Operation, requiring pre-approval with ODFW and BLM
- 2- DOGAMI Surface Mining Operating permits
- 3-Construct Well and delivery system
- 4- Construct Access Road and other mining infrastructure and use water beneficially

[OAR 690-315-0020(3)(k)]

13. Justify the time requested to complete the project and/or apply the water to full beneficial use. (Include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.)

We have been unable to complete the construction of our mine and water system due to lengthy LUBA appeals from project opponents. See attached records regarding our diligence towards obtaining approval and evidence of the ongoing appeals. Now that we have successfully obtained our Plan Amendment and Zone change, a process that took 11 years due to four appeals, we know that each step will likely require a lengthy process. Our next step is to obtain a County Site Plan Review for Surface Mining Operation, including working with ODFW and BLM regarding compliance and mitigations for Sage Grouse. Following the Site Plan approval, we will need to seek our DOGAMI Operating permit, which is expected to be obtained timely following Site Plan approval. This process has proven to be difficult and lengthy, although we are dedicated to obtaining the approvals and developing the water right to full beneficial use in the requested time.

[OAR 690-315--0020(3)(l)]

14a. Will a denial of the extension result in undue hardship? (Describe the hardship and the effects.)

Yes, we will be unable to construct the mine and develop the water right as part of the project, which will cause a significant hardship in the form of a substantial financial loss due to sunk costs applied to the project to-date.

14b. Are there any other reasonable alternatives that exist for meeting your water use needs? (Explain in detail, consider other potential sources of water, and describe their feasibility)

No, there are no other water sources available, and a new permit would likely not be approved due to the capacity of the resource.

[OAR 690-315-0020(3)(h)]

15. Was the delay in the timely completion of this water development project and/or timely application of water to full beneficial use caused by any additional government requirements, other than the conditions contained within the permit, which significantly delayed the completion and perfection of this right? (Explain in detail, including how much time did this delay the project; list dates.)

Yes, we have been unable to obtain final permits and approvals due to appeals to our County approval and complications surrounding obtaining approval for our County Site Plan Review for Surface Mining Operation, requiring ODFW/BLM mitigation. We originally applied for permits on October, 1st 2004, the first approval (Required Plan Amendment & Zone Change) was appealed 4 times to LUBA between 2004-2015. See attached evidence. Our next required approval is the preliminary approval and mitigation with ODFW and BLM prior to obtaining our required Site Plan Review for Surface Mining Operation. Due to complications surrounding Sage Grouse habitat, this delay has been ongoing since 2015, exacerbated by COVID, during which time correspondence with ODFW was limited to non-existent and mitigation requirements have increased drastically.

[OAR 690-315-0020(3)(h)]

16. Describe any unforeseen events which contributed to the delay of completion of this project that you had no control over. (Explain in detail what the unforeseen events were (i.e. health issues, natural disaster) and how much time was spent addressing the unforeseen events. Delays caused by business decisions are not considered unforeseen events)

Yes, the ongoing appeals were unforeseen. The grounds for the appeals were unforeseen, as were the issues encountered with the ODFW and BLM regarding Sage Grouse. Additionally, the COVID19 Pandemic was unforeseen, and caused significant disruption during the recent extension period.

[OAR 690-315-0020(3)(h)]

17. Describe any additional reasons why the construction was not completed, and/or water was not beneficially used within permit time limits. (Provide supporting information for the reason(s) that best fits your circumstances.)

n/a

[OAR 690-315-0020(3)(m)(n)]

18. Provide any other information you wish OWRD to consider while evaluating your Application for Extension of Time.

Including land costs, we have invested \$280k into this project, including significant costs spent on fighting appeals, showing a large investment and diligence towards completion of the project despite not having broken ground on the mine.

[OAR 690-315-0040(2)(f)]

19. Will the income or use of the water project provide a fair and reasonable return on your investment? (Explain in detail) **OWRD**

Yes, once the mine is completed, the business income from material sales over time will provide a fair and reasonable return on our investment.

[OAR 690-315-0040(4)(d)]

20. Describe in detail if there are other economic interest, beyond those of the permit holder, which are dependent upon the completion of this project. (Who will be effected and how?)

Yes, the project will provide needed construction materials to the growing region, as well as provide income to contractors during the construction phase, and ongoing jobs after project completion, providing an overall economic benefit to the region.

Attach permit, and documentation to the application

STATE OF OREGON
COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

Received
SEP 23 2025
OWRD

THIS PERMIT IS HEREBY ISSUED TO

4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

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

APPLICATION FILE NUMBER: G-16403

SOURCE OF WATER: WELL 1 IN DRY RIVER BASIN

PURPOSE OR USE: INDUSTRIAL USE (GRAVEL MINING)

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND, FURTHER LIMITED TO 6.0 ACRE
FEET PER YEAR

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 7, 2005

WELL LOCATION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 30, T19S, R15E, W.M.; 600 FEET
NORTH & 1400 FEET EAST FROM SW CORNER, SECTION 30

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 30
TOWNSHIP 19 SOUTH, RANGE 15 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

Application G-16403 Water Resources Department

PERMIT G-16243

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation as required herein is maintained.

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and submit annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the

Application G-16403 Water Resources Department

PERMIT G-16243

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Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

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

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

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

GROUND WATER MITIGATION CONDITIONS

Mitigation Obligation: 4.2 acre-feet annually in the General Zone of Impact, located in the Deschutes River Basin above the Madras gage, which is located below Lake Billy Chinook.

Mitigation Source: 4.2 Mitigation Credits originating from Mitigation Project MP-#27, which is a permanent instream transfer that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Application G-16403 Water Resources Department PERMIT G-16243

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Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s), will occur if the required mitigation is not maintained.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

STANDARD CONDITIONS

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

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

Received
SEP 23 2025
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This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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

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

Complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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

Issued November 1, 2007

E. Timothy Ward

for Phillip C. Ward, Director
Water Resources Department

Received
SEP 23 2025

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Application G-16403 Water Resources Department
Basin 5

PERMIT G-16243
District 11

Received
SEP 23 2025
OWRD

RECEIVED
MAR 07 2005

WATER RESOURCES DEPT
SALEM, OREGON

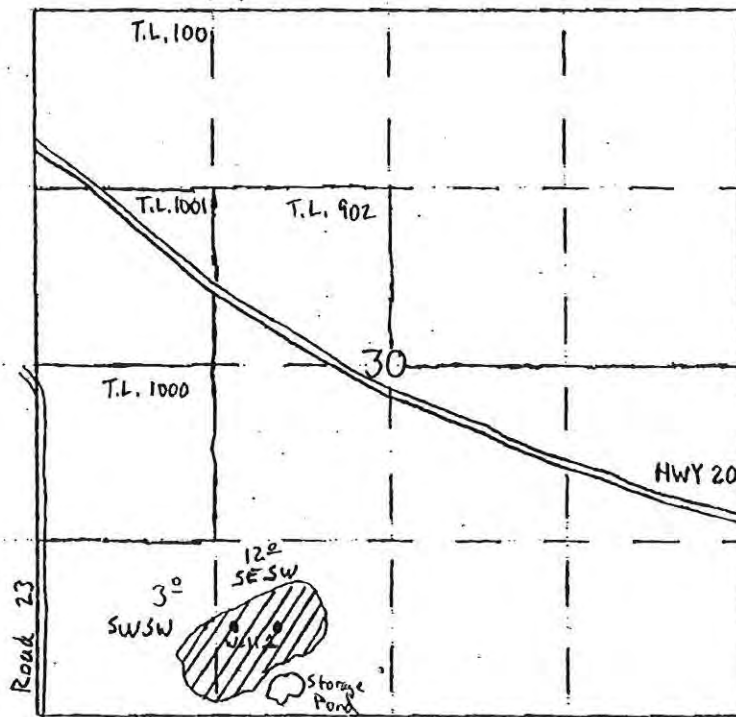
GROUNDWATER APPLICATION FOR
JACK ROBINSON & SONS

TOWNSHIP 19 SOUTH RANGE 15 EAST
SECTION 30

RECEIVED

FEB 24 2005

WATER RESOURCES DEPT
SALEM, OREGON



Well #1 = 1400' East & 600' North of the SW 1/4 of Section 30,
Township 19 South Range 15 East, W.M.

▨ = Industrial P.O.U.

app # G 16403



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Received
SEP 23 2025
OWRD

Extension of Time
Progress Report Form
For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: 4-R Equipment

Application G-16403
Permit G-16243

Report Due no later than October 1, 2018

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

Progress Report Form for 2018

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and
perfections of Permit G-16243. FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION
BEING DENIED.

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2012 and October 1, 2018	FINANCIAL INVESTMENT
2012-2018	Legal & Professional Fees for Land Use Approvals / Permitting	\$40 K

2. Compliance with terms and conditions of the permit and/or previous extension.

Mitigation Obligation has been met, Metering and March Static Level
measurements are not yet applicable since well has not yet been drilled
due to Land Use Appeals.

3. Total number of acres irrigated to date= n/a (if applicable)

4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this
permit, if any, made to date.

Maximum rate used to date = 0 cfs (cubic feet per second), or

Maximum rate used to date = n/a gpm (gallons per minute), or

Acre Feet stored to date = n/a AF

Report the rate in the same units of
measurement as specified in the permit, being
cfs (cubic feet per second), gpm (gallons per
minute) or AF (acre-feet). Do not provide
daily, monthly or annual water volume totals.

INCOMPLETE REPORTS WILL BE RETURNED. AN ANSWER IS REQUIRED IN EACH ITEM. USE N/A FOR ITEM 3 IF THE USE IS NOT
IRRIGATION.

Signature

Gen Goleniser

Date

09/19/2025

Received
SEP 23 2025
OWRD

Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin Street SW
Albany OR 97321-2246
(541) 967-2039

Site # ?
19-15-00-902

EXPLORATION PERMIT -- Renewal
ISSUED SUBJECT TO ANY LISTED CONDITIONS

4-R Equipment, LLC
PO Box 7527
Bend OR 97708

ID No.: 09-0179
Site Name: Spencer Wells Pit
County: Deschutes
TRS TL: 19S15E30 902,1000

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan.

This permit does not authorize entry onto or under the land of another person, including land held by the state or any other governmental entity.

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.702 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

DOGAMI Conditions:
(NONE)

Other Agency Notifications:
The Permittee must:

- contain all stormwater on site, or obtain the appropriate DEQ NPDES 1200 permit (administered by DOGAMI if 1200-A or DEQ if 1200-C), prior to allowing stormwater runoff from all drilling pads and/or other areas of disturbed ground related to exploration activity.
- not allow drilling mud or any water used in the drilling process to discharge to either surface water (including wetlands) or groundwater without obtaining the appropriate DEQ discharge permit.
- cover management of all drilling mud(s) and solids under an approved DEQ Solid Waste Letter Authorization.
- consult with the appropriate DEQ regional office to determine if any air quality permits are needed for any of the activities that will be conducted under this permit. (Note that DEQ forms AQ104-Notice of Intent to Construct and AQ210-Internal Combustion Engines and Turbines may need to be completed and submitted to DEQ for concurrence with DEQ air quality regulations.)
- obtain a water right or other authorization from WRD for any beneficial use of more than 5,000 gallons of water per day.

Issued March 12, 2020


Vaughn Balzer
Reclamationist

RENEWAL IS REQUIRED ANNUALLY BY JANUARY 31

c: Deschutes County Planning Department

Cynthia Smidt

From: LOFTON ReNeea * DGMI <Reneea.LOFTON@oregon.gov>
Sent: Thursday, March 12, 2020 2:43 PM
To: CDD Planning
Subject: FW: 09-0179 Renewed Permit
Attachments: 09-0179_XP_Jan31.pdf

Received
SEP 23 2025
OWRD

[EXTERNAL EMAIL]

[EXTERNAL EMAIL]

For your records...

ReNeea Lofton
DOGAMI-MLRR

From: LOFTON ReNeea * DGMI
Sent: Thursday, March 12, 2020 2:40 PM
To: 'Ryan Clark' <ryan@4reupment.com>
Subject: 09-0179 Renewed Permit

Hi Ryan,

Attached is the renewed permit for Exploration ID#09-0179 – Spencer Wells Pit. Please note this is the last copy of this permit you will receive, even if it is renewed for another year. We are trying to move to a digital renewal process as much as possible, starting with Exploration permits as a small test group. Exploration permits are being issued without an expiration year – they just need to be renewed by January 31 every year. Reminders will continue to be sent via email, as they have been for the last few years.

Please let us know if you have any questions/suggestions!

ReNeea Lofton | Permit Coordinator
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Direct: (541) 967-2040 | Fax: (541) 967-2075
E-mail: ReNeea.Lofton@oregon.gov | www.oregongeology.org

Check out our latest newsletter and sign up to receive it directly at: <https://www.oregongeology.org/mlrr/engage.htm>

Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.

Received
SEP 23 2025
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Oregon Dept. of Geology & Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin St. SW
Albany OR 97321-2246
(541) 967-2039

Site # — N/A
19-15-00-902

EXPLORATION PERMIT -- Renewal
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||

4-R Equipment, LLC
PO Box 7527
Bend OR 97708

ID No.: 09-0179
County: Deschutes
Section: 30
Twp: 19S
Range: 15E
Site Name: Spencer Wells Pit

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit. Applicants seeking Exploration Permits from the department should be aware that other state, federal and local agencies may require the applicant to obtain approval prior to operation.

This permit does not authorize entry onto or under the land of another person, including land held by the state or any other governmental entity.

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.702 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Conditions:

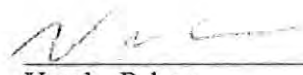
NONE

Other Agency Notifications:

The Permittee must:

1. contain all stormwater on site, or obtain the appropriate DEQ NPDES 1200 permit (administered by DOGAMI if 1200-A or DEQ if 1200-C), prior to allowing stormwater runoff from all drilling pads and/or other areas of disturbed ground related to exploration activity.
2. not allow drilling mud or any water used in the drilling process to discharge to either surface water (including wetlands) or groundwater without obtaining the appropriate DEQ discharge permit.
3. cover management of all drilling mud(s) and solids under an approved DEQ Solid Waste Letter Authorization.
4. consult with the appropriate DEQ regional office to determine if any air quality permits are needed for any of the activities that will be conducted under this permit. (Note that DEQ forms AQ104-Notice of Intent to Construct and AQ210-Internal Combustion Engines and Turbines may need to be completed and submitted to DEQ for concurrence with DEQ air quality regulations.)
5. obtain a water right or other authorization from WRD for any beneficial use of more than 5,000 gallons of water per day.

Issued 2/4, 2019


Vaughn Balzer
Reclamationist

RENEWAL IS REQUIRED BY JANUARY 31, 2020

c: Deschutes County Planning Department

Received
SEP 23 2025
OWRD

Oregon Dept. of Geology & Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin St. SW
Albany OR 97321-2246
(541) 967-2039

19-15-00-902
No Site #

EXPLORATION PERMIT -- Renewal
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||

4-R Equipment, LLC
PO Box 7527
Bend OR 97708

ID No.: 09-0179
County: Deschutes
Section: 30
Twp: 19S
Range: 15E
Site Name: Spencer Wells Pit

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit. Applicants seeking Exploration Permits from the department should be aware that other state, federal and local agencies may require the applicant to obtain approval prior to operation.

This permit does not authorize entry onto or under the land of another person, including land held by the state or any other governmental entity.

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.702 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Conditions:

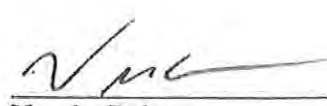
NONE

Other Agency Notifications:

The Permittee must:

1. contain all stormwater on site, or obtain the appropriate DEQ NPDES 1200 permit (administered by DOGAMI if 1200-A or DEQ if 1200-C), prior to allowing stormwater runoff from all drilling pads and/or other areas of disturbed ground related to exploration activity.
2. not allow drilling mud or any water used in the drilling process to discharge to either surface water (including wetlands) or groundwater without obtaining the appropriate DEQ discharge permit.
3. cover management of all drilling mud(s) and solids under an approved DEQ Solid Waste Letter Authorization.
4. consult with the appropriate DEQ regional office to determine if any air quality permits are needed for any of the activities that will be conducted under this permit. (Note that DEQ forms AQ104-Notice of Intent to Construct and AQ210-Internal Combustion Engines and Turbines may need to be completed and submitted to DEQ for concurrence with DEQ air quality regulations.)
5. obtain a water right or other authorization from WRD for any beneficial use of more than 5,000 gallons of water per day.

Issued 05/11, 2018


Vaughn Balzer
Reclamationist

RENEWAL IS REQUIRED BY JANUARY 31, 2019

c: Deschutes County Planning Department



Received
SEP 23 2025
OWRD

For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 18, the Deschutes
County Zoning Map, to Change the Zone
Designation on Certain Property from Exclusive
Farm Use (EFU-HR) to Surface Mining (SM), and
establishing a One-Half Mile Surface Mining Impact
Area (SMIA) Combining Zone around the SM Site.

*
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*
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*

ORDINANCE NO. 2015-022

WHEREAS, 4-R Equipment, LLC applied for a Zone Change (file no. ZC-04-6) to the Deschutes County Code ("DCC") Title 18, Zoning Map, to rezone certain property from Exclusive Farm Use – Horse Ridge East Subzone (EFU-HR) to Surface Mining (SM); and

WHEREAS, the Deschutes County Board of Commissioners (Board), after review conducted in accordance with applicable law, approved the proposed change to the County Zoning Map; and

WHEREAS a change to the Deschutes County Zoning Map is necessary to implement the amendment adopted in Ordinance 2015-021; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. AMENDMENT. DCC Title 18, Zoning Map, is hereby amended to change the zone designation of the subject property, described as tax lots 902, 1000 and 1001 in Section 30 of Township 19 South, Range 15 East, Willamette Meridian, and as further described by the legal description attached hereto as Exhibit "A" and the map set forth as Exhibit "B," and by the reference incorporated herein, from Exclusive Farm Use – Horse Ridge East subzone (EFU-HR) to Surface Mining (SM). The area zoned Flood Plain is not being rezoned.

Section 2. AMENDMENT. DCC Title 18, Zoning Map is hereby amended to add the Surface Mining Impact Area (SMIA) Combining Zone around the SM Zone shown on Exhibit B, and depicted on the map set forth as Exhibit "C," and by this reference incorporated herein.

Section 3. FINDINGS. The Board adopts as its findings in support of this Ordinance, the Decision of the Board of County Commissioners, attached to Ordinance 2015-021 as Exhibit "F," and incorporated by reference herein.

///

Received
SEP 23 2025
OWRD

Dated this 23rd of Nov., 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Anthony DeBone
ANTHONY DEBONE, CHAIR

Alan Unger
ALAN UNGER, VICE CHAIR

Tammy Baney
TAMMY BANEY, COMMISSIONER

ATTEST:

Bonnie Baker
Recording Secretary

Date of 1st Reading: 9th day of Nov., 2015.

Date of 2nd Reading: 23rd day of Nov., 2015.

Record of Adoption Vote

Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	<u>✓</u>	_____	_____	_____
Alan Unger	<u>✓</u>	_____	_____	_____
Tammy Baney	<u>✓</u>	_____	_____	_____

Effective date: 22nd day of Feb., 2016.

ATTEST:

Bonnie Baker
Recording Secretary

Received
SEP 23 2025
OWRD

Property Description
4-R Equipment LLC

EXHIBIT A

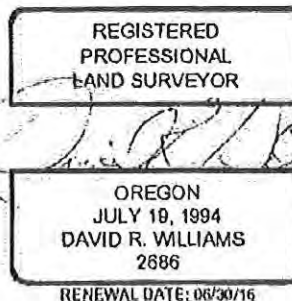
All that portion of Section 30, Township Nineteen (19) South, Range Fifteen (15) East of the Willamette Meridian, Deschutes County Oregon lying southerly of US Highway 20 being more particularly described as follows:

Government Lot 2; Government Lot 3; the Southeast One-Quarter of the Northwest One-Quarter (SE1/4 NW1/4); the Northeast One-Quarter of the Southwest One-Quarter (NE1/4 SW1/4); the South One-Half of the Southwest One-Quarter (S1/2 SW1/4) and the Southeast One-Quarter, lying south of US Highway 20.

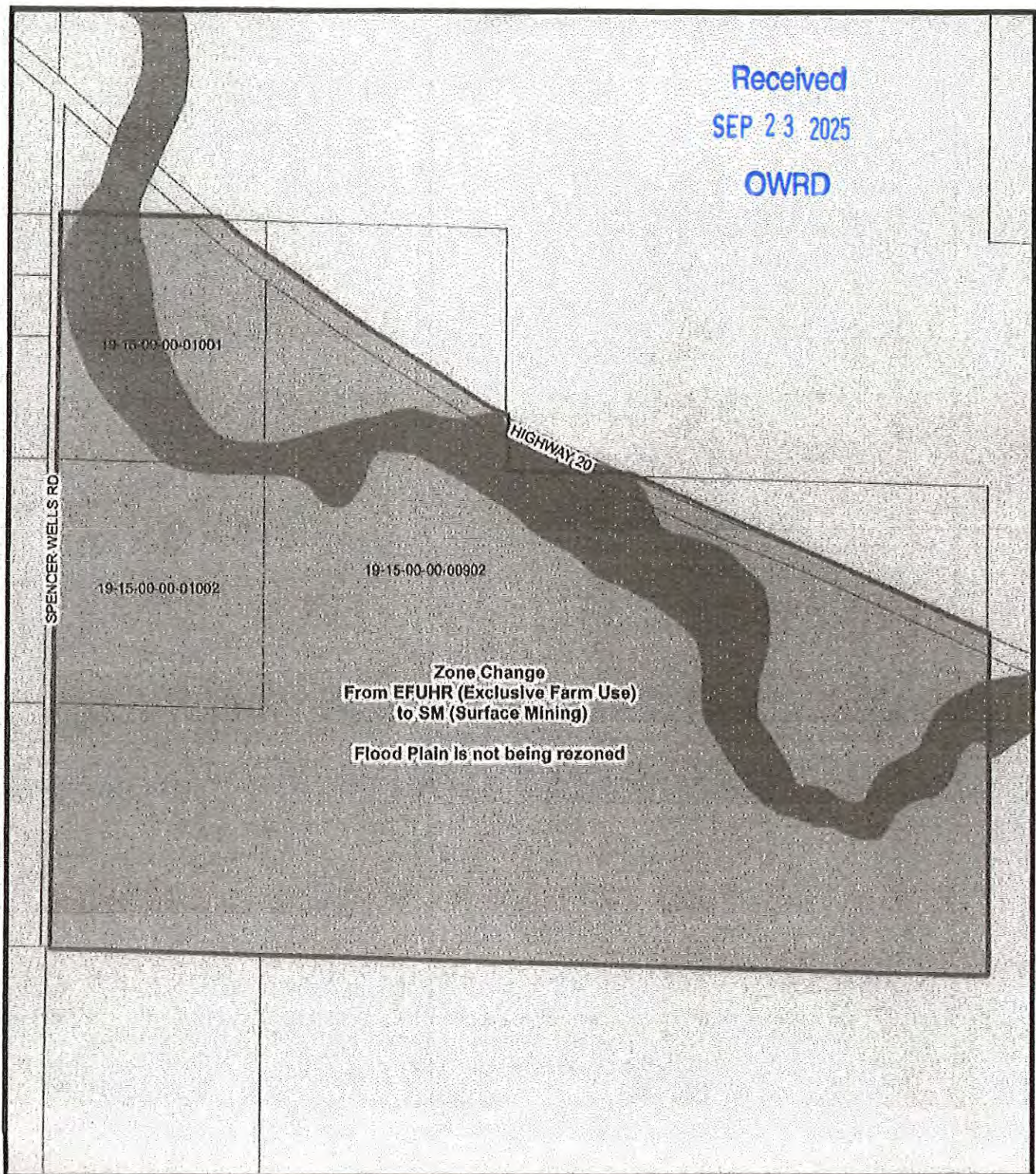
Excepting Therefrom: that portion conveyed to the State of Oregon, by and through its State Highway Commission, March 13, 1940 in Book 58, Page 381, Deed Records.

Also Excepting Therefrom: That property in the above described lands located in the Flood Plain Zone per Chapter 18.96, Deschutes County Zoning Ordinance.

Subject to: All easements, restrictions and right-of-ways of record and those common and apparent on the land.



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SEP 23 2025
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Legend

-  Subject Property
-  EFUHR - Horse Ridge Subzone
-  FP - Flood Plain
-  SM - Surface Mining

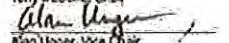
PROPOSED ZONE CHANGE

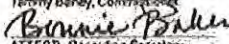
4-R Equipment, LLC

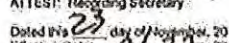
Exhibit "B"
to Ordinance 2015-022



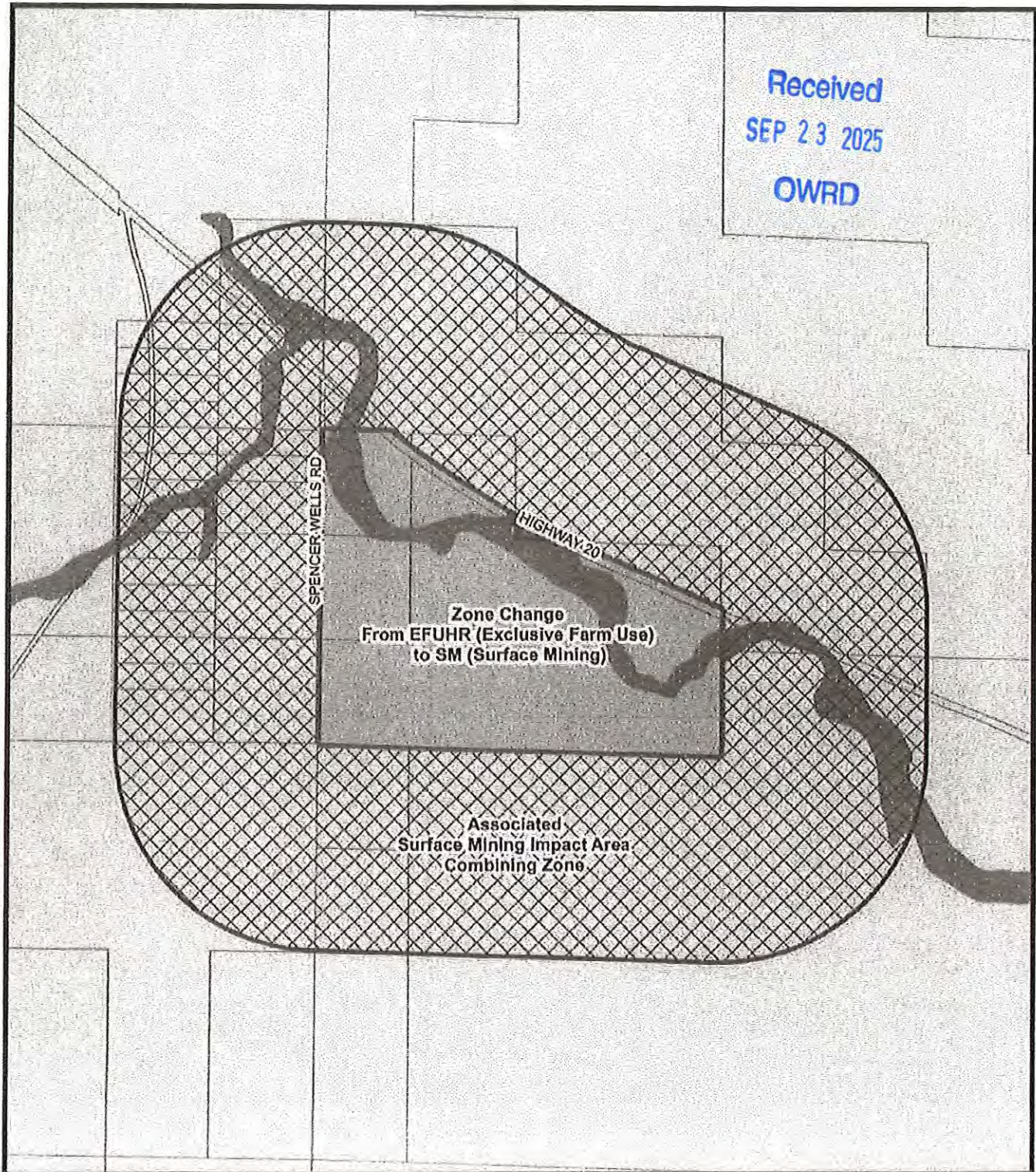
BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


Tony DeBore, Chair

Alan Unzer, Vice Chair

Terriy Barney, Commissioner

Bonnie Baker, Recording Secretary

Attested: 
Dated this 23 day of November, 2015
Effective Date: 2/22, 2016

Received
SEP 23 2025
OWRD



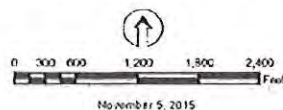
Legend

-  Subject Property
-  SMIA - Surface Mining Impact Area
-  EFUHR - Horse Ridge Subzone
-  FP - Flood Plain
-  SM - Surface Mining

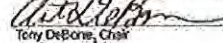
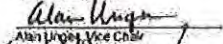
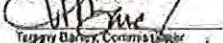
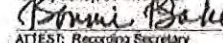
PROPOSED ZONE CHANGE

4-R Equipment, LLC

Exhibit "C"
to Ordinance 2015-022



BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON


Terry DeBorne, Chair

Alan Hughes, Vice Chair

Terry Bahoy, Commissioner

Bonnie Baker
ATTEST: Recording Secretary

Dated this 23 day of November, 2015
Effective Date: 2/22, 2018



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

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P

For Office Use Only

Jurisdiction: Deschutes County

Local file number: PA-04-8, ZC-04-6

Date of Adoption: November 23, 2015

Date Mailed: December 1, 2015

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date:☐ Comprehensive Plan Text Amendment☒ Comprehensive Plan Map Amendment☐ Land Use Regulation Amendment☒ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Plan Amendment to revised the mineral and aggregate resource inventory for Deschutes County, and redesignating certain property from Agricultural to Surface Mining. Zone Change from Exclusive Farm Use (EFU-HR) to Surface Mining (SM).

Does the Adoption differ from proposal? Please select one

No.

Plan Map Changed from: Agriculture

to: Surface Mining

Zone Map Changed from: Exclusive Farm Use

to: Surface Mining

Location: Assessor's Map 19-15, 902, 1000, 1001

Acres Involved: 365

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☐	☒	☒	☐	☒	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ No

DLCD file No. _____

Received
SEP 23 2025
OWRD

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Oregon Department of Fish and Wildlife, Bureau of Land Management, Oregon Department of Geology and Mineral Industries.

Local Contact: Paul Blikstad, Senior Planner

Phone: (541) 388-6554 Extension:

Address: 117 NW Lafayette

Fax Number: 541-385-1764

City: Bend, OR

Zip: 97701

E-mail Address: paul.blikstad@deschutes.org

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 30, 2011

Received
SEP 23 2025
OWRD



For Recording Stamp Only

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Title 23, the Deschutes
County Comprehensive Plan, to Revise the Mineral
and Aggregate Resource Inventory for Deschutes
County, and Redesignating Certain Property from
Agricultural to Surface Mining.

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*

ORDINANCE NO. 2015-021

WHEREAS, 4-R Equipment, LLC proposed a Plan Amendment (file no. PA-04-8) to the Deschutes County Comprehensive Plan, to redesignate certain property from Agriculture to Surface Mining; and

WHEREAS, the Deschutes County Board of Commissioners (Board), after review conducted in accordance with applicable law, approved the proposed amendment to the Comprehensive Plan, and adding the site to the County's Mineral and Aggregate Resource Inventory; and

WHEREAS the Board's decision was not appealed; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS
as follows:

Section 1. AMENDMENT. DCC Section 23.01.010, Introduction, is amended to read as described in Exhibit "A" attached and incorporated by reference herein, with new language underlined.

Section 2. AMENDMENT. Deschutes County Comprehensive Plan Section 5.12, Legislative History, is amended to read as described in Exhibit "B," attached and incorporated by reference herein with new language underlined.

* { Section 3. AMENDMENT. Deschutes County Comprehensive Plan is hereby amended to add the subject property to the County's Mineral and Aggregate Resource Inventory, and change the Comprehensive Plan designation of the subject property, described as tax lots 902, 1000 and 1001 in Section 30 of Township 19 South, Range 15 East, Willamette Meridian, and as further described by the legal description attached hereto as Exhibit "C" and the map set forth as Exhibit "D," and the Surface Mining Inventory list for the County, attached hereto as Exhibit "E," by the reference incorporated herein, from Agriculture to Surface Mining.

Section 4. FINDINGS. The Board adopts as its findings in support of this Ordinance, the Decision of the Board of County Commissioners, attached hereto and incorporated herein by this reference, as Exhibit "F."

///

Received
SEP 23 2025
OWRD

Dated this 28th of Nov., 2015

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

Anthony DeBone
ANTHONY DEBONE, CHAIR

Alan Unger
ALAN UNGER, VICE CHAIR

ATTEST:

Bonnie Baker
Recording Secretary

Tammy Baney
TAMMY BANEY, COMMISSIONER

Date of 1st Reading: 9th day of Nov., 2015.

Date of 2nd Reading: 28th day of Nov., 2015.

Record of Adoption Vote				
Commissioner	Yes	No	Abstained	Excused
Anthony DeBone	<u>✓</u>	___	___	___
Alan Unger	<u>✓</u>	___	___	___
Tammy Baney	<u>✓</u>	___	___	___

Effective date: 22nd day of February 2016.

ATTEST:

Bonnie Baker
Recording Secretary

Received
SEP 23 2025
OWRD

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

08/17/15 PM 2:20 LUBA

CENTRAL OREGON LANDWATCH,
Petitioner,

vs.

DESCHUTES COUNTY,
Respondent,

and

4-R EQUIPMENT, LLC,
Intervenor-Respondent.

LUBA No. 2015-011

TAMMERA WALKER,
Petitioner,

vs.

DESCHUTES COUNTY,
Respondent,

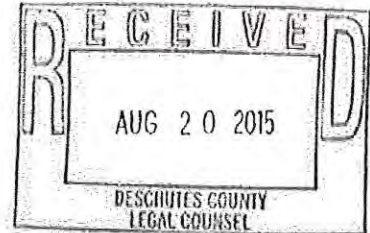
and

4-R EQUIPMENT, LLC,
Intervenor-Respondent.

LUBA No. 2015-012

FINAL OPINION
AND ORDER

Appeal from Deschutes County.



* See Page 3

1
2 Paul D. Dewey, Bend, filed a petition for review and argued on behalf of
3 petitioner Central Oregon Landwatch.
4

5 Tammera Walker, Wasilla, Alaska, filed a petition for review on her own
6 behalf.
7

8 Laurie E. Craghead, Assistant County Counsel, Bend, filed a response
9 brief.
10

11 Sharon R. Smith, Bend, filed the response brief and argued on behalf of
12 intervenor-respondent. With her on the brief were Garrett Chrostek and Bryant
13 Lovlien & Jarvis, PC.
14

15 HOLSTUN, Board Member; BASSHAM, Board Chair; RYAN Board
16 Member, participated in the decision.
17

18 AFFIRMED 08/17/2015
19

20 You are entitled to judicial review of this Order. Judicial review is
21 governed by the provisions of ORS 197.850.

Opinion by Holstun.

NATURE OF THE DECISION

Petitioners appeal a county decision that approves a plan amendment and zone change to allow a basalt mine on land currently zoned for exclusive farm use.

MOTION TO INTERVENE

Intervenor-respondent 4-R Equipment, LLC (intervenor or applicant) moves to intervene in LUBA Nos. 2015-011 and 2015-012. The motions are unopposed, and are granted.

FACTS

A. Prior Appeals

This matter is before us for the fourth time.¹ As noted in the third appeal, in 2006 intervenor applied to have its 385-acre property (subject property) placed on the county's inventory of mineral and aggregate sites, and to rezone the property to Surface Mining (SM), to facilitate proposed mining and crushing of basalt rock. *Nash*, 63 Or LUBA at 28. Adjacent to the subject property is the Evans Well Ranch, an approximately 22,000-acre cattle ranching operation that is comprised in part of pasture allotments that are leased by the Bureau of Land Management (BLM). The BLM manages and controls the use of the pastures and assigns periods of grazing for each of the pastures. One of those pastures, the Flat Pasture, is approximately 5,000 acres in size and shares a common boundary of approximately 1,320 feet with the

¹ In *Walker v. Deschutes County*, 55 Or LUBA 93 (2007) (*Walker I*), *Walker v. Deschutes County*, 59 Or LUBA 488 (2009) (*Walker II*) and *Nash v. Deschutes County*, 63 Or LUBA 27 (2011) (*Nash*), we remanded the county's decisions.

1 subject property.² The subject property is separated from Flat Pasture by a
2 fence and by Spencer Well Road, a paved road.

3 To summarize, in *Walker I*, see n 1, we remanded the county's decision
4 approving the application because of the county's failure to fulfill requirements
5 under OAR 660-023-0180. We directed the county to (1) consider whether to
6 expand the impact area beyond one-half mile to include additional grazing land
7 and (2) to determine possible mining conflicts with agricultural operations. We
8 sustained one assignment of error in part because of evidence that indicated
9 grazing operations beyond the one-half mile impact area may be impacted by
10 the mining and associated activities. 55 Or LUBA at 104.

11 In *Walker II*, we remanded the county's decision again, in part because
12 the county failed to consider petitioners' evidence that the mine would produce
13 conflicts with grazing on the Flat Pasture located within and beyond the impact
14 area. 59 Or LUBA at 495.

15 In *Nash*, we remanded the county's decision again. As relevant here, the
16 scope of our remand in *Nash* is set out below:

17 "To summarize, remand is again necessary for (1) the county to
18 expand the impact area to include the Flat Pasture or to identify
19 substantial evidence in the record that supports its decision to limit
20 the impact area to one-half mile from the proposed mine; and (2)
21 to evaluate any conflicts with petitioners' agricultural operations
22 in the impact area that the county designates, including whether
23 the proposed mine would cause sage grouse to abandon the area

² The county's decision notes that there are two Flat Pastures in the general vicinity of the proposed mine, and that the two pastures have been conflated at various times throughout the record. As applicable to the impacts analysis, Horse Ridge Flat Pasture is the only Flat Pasture that shares a common boundary with the subject property, and is the "Flat Pasture" that is the subject of our prior remand. Record 9.

1 and seek winter habitat on petitioners' other allotments." 63 Or
2 LUBA at 36-37.

3 **B. The County's Latest Decision to Approve the Mine**

4 In response to a request by the applicant to reinitiate the remand process,
5 the county board of commissioners again approved the application. As part of
6 its decision, the board of commissioners explained that the applicant clarified
7 that the mine would operate year-round, a departure from LUBA's
8 understanding that the mining operation was to be limited to November
9 through February. *Nash*, 63 Or LUBA at 28. The county construed the
10 applicant's "clarification" that the mine would operate year-round not to
11 constitute a "modification" of the original application, and determined that a
12 Deschutes County Code (DCC) standard regarding modifications of
13 applications was not implicated. Record 8.

14 The county interpreted our remand narrowly and limited its review to the
15 two issues noted above, but reopened the record to receive additional evidence
16 to resolve the remand. The county responded to the first remand issue by
17 reviewing conflicting testimony regarding noise impacts on cattle, and
18 concluded that expected noise impacts from the mine on grazing cattle on
19 adjoining lands did not justify expanding the impact area beyond one-half mile.
20 On the second remand issue, the county determined that "the proposed mine
21 does not conflict with agricultural practices, of any kind or location, on account
22 of the possibility that the proposed mine could cause sage grouse to relocate to
23 areas that create conflicts with agricultural practices." Record 12. Prior to this
24 decision, the *Nash* petitioners had put forth a similar argument, which we
25 characterized as an argument that "relies on several levels of speculative
26 causation," but nevertheless directed the county to address that argument

1 because the county failed to do so in the decision that was before us in *Nash*.
2 *Nash*, 63 Or LUBA at 36. The argument depends on a theory that mining
3 might cause sage grouse utilizing nearby habitat to relocate, which in turn
4 could result in the BLM curtailing cattle grazing in areas where the sage grouse
5 relocate. In response to our remand, the county relied on evidence that
6 undermined this theory, including testimony by the current holder of the
7 grazing rights' and testimony regarding current grazing practices, and the
8 presence of other external factors.

9 **FIRST ASSIGNMENT OF ERROR**

10 Petitioners contend that LUBA, the board of commissioners and all
11 parties in *Nash* understood that operation of the proposed mining operation
12 would be limited to November through February. Petition for Review 11.
13 Under DCC 22.34.040(B), following a remand from LUBA, an application for
14 land use permit approval may be "modified" to respond to remand "issues,"
15 provided the modification "would not substantially alter the proposal and
16 would not have a significantly greater impact on surrounding neighbors." ³
17 Petitioners argue that the board of commissioners in its decision following
18 LUBA's remand in *Nash* erred in finding that a change from a mine that only
19 operates November through February to a year-round mine does not result in a

³ DCC 22.34.040(B) provides:

"At the Board's discretion, a remanded application for a land use permit may be modified to address issues involved in the remand or withdrawal to the extent that such modifications would not substantially alter the proposal and would not have a significantly greater impact on surrounding neighbors. Any greater modification would require a new application."

1 “modified” application under DCC 22.34.040(B). The board of commissioners
2 found that the applicant’s “clarification” that the mine would operate year-
3 round did not amount to a “modified” “application” that is subject to DCC
4 22.34.040(B).⁴ Petitioners contend the purported “clarification” constitutes a
5 modification of the application and that the modification is inconsistent with
6 DCC 22.34.040(B) because it was not needed to respond to either of the
7 remand issues in *Nash* and because the modification does “substantially alter
8 the proposal” and would “have a significantly greater impact on surrounding
9 neighbors.” See n 3. Petitioners contend a new application should have been
10 required to change the proposed mining operation to a year-round facility.⁵

⁴ The board of commissioners finding that the applicant’s clarification that the mine would operate year-round does not implicate DCC 22.34.040(B) is set out below:

“**FINDINGS:** The application has not been modified. The Applicant did address instances in the record that suggested mining activities would only take place from November to February. According to the Applicant, references to this time period were meant to indicate when mining operations are most likely to occur because this is when workers, who are usually employed in construction activities for the remainder of the year, are generally available. The Board considers Applicant’s submission to constitute a mere clarification and not a modification.” Record 8.

⁵ While it does appear that LUBA, the county, petitioner and at least one of intervenor’s experts understood that the mining operation was to be limited to November through February, intervenor points out the application itself does not propose that mining operations would be limited to November through February and none of the conditions of approval in the decision that was the subject of review in *Nash* limited the mining operation to November through February.

1 Intervenor responds that petitioners waived this issue under ORS
2 197.835(4)(a). Under ORS 197.763(1), a petitioner must raise an issue which
3 may be the basis for an appeal to LUBA no later than the close of the record at
4 or following the final evidentiary hearing on the proposal.⁶ ORS 197.835(3)
5 limits LUBA's scope of review to issues that have been raised in accordance
6 with ORS 197.763.⁷ However, the first sentence of ORS 197.835(4)(a)
7 provides that new issues may be raised for the first time at LUBA if the local
8 government failed to identify applicable criteria in the notice, "in which case a
9 petitioner may raise new issues based upon applicable criteria that were
10 omitted from the notice."⁸ Petitioners respond that because the county failed to

⁶ ORS 197.763(1) provides that:

"An issue which may be the basis for an appeal to the Land Use Board of Appeals shall be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the local government. Such issues shall be raised and accompanied by statements or evidence sufficient to afford the governing body, planning commission, hearings body or hearings officer, and the parties an adequate opportunity to respond to each issue."

⁷ ORS 197.835(3) provides: "Issues shall be limited to those raised by any participant before the local hearings body as provided by ORS 197.195 or 197.763, whichever is applicable."

⁸ ORS 197.835(4)(a) provides a petitioner may raise new issues at LUBA if:

"The local government failed to list the applicable criteria for a decision under ORS 197.195(3)(c) or 197.763(3)(b), in which case a petitioner may raise new issues based upon applicable criteria that were omitted from the notice. *However, the board may refuse to allow new issues to be raised if it finds that the issue could have been raised before the local government[.]*" (Emphasis added.)

1 list DCC 22.34.040(B) as an applicable approval criterion they are not
2 precluded from raising the issue raised in the first assignment of error.

3 Intervenor notes that in the proceeding below no petitioner raised any
4 issue regarding: (1) DCC 22.34.040(B), (2) the proposed clarification or (3)
5 impacts to sage grouse from *year-round* mining. Intervenor first argues that
6 the county could not have identified DCC 22.34.040(B) in its notice of hearing,
7 because the notice was issued prior to receiving the "clarification" from
8 intervenor. The notice was issued on October 30, 2014, and intervenor
9 submitted its supplemental burden of proof on November 7, 2014, which
10 contained the disputed timing "clarification." Record 173.⁹

⁹ The supplemental burden of proof clarification is set out below:

"VIII. TIMING OF MINING OPERATIONS:

"On prior occasions, representatives of the Applicant have indicated that mining operations will occur from November to February. This statement has been incorporated into past decisions and needs to be clarified. The basis for this statement is that it is Applicant's expectation that primary mining activities (blasting and rock crushing) will predominantly occur during the winter. Applicant still anticipates primary mining operations to predominantly occur during this season because that is when workers are available. During other parts of the year, workers are primarily engaged in construction activities. Applicant has always maintained that mining may occur at other times, but would expect such mining activities to primary involve loading and trucking. However, it is possible that some blasting and crushing could occur at other times of the year, depending on worker availability, demand, and if winter operations are curtailed due to weather. In summary, there are no conditions limiting operations only in winter and no reason to impose additional conditions beyond the current 20 conditions * * *."

1 The public hearing on the remand occurred on November 12, 2014. At
2 that hearing, copies of the supplemental burden of proof and a “decision
3 matrix” document were distributed to assist the county commissioners. Item #4
4 on the decision matrix stated that “[t]he applicant has indicated that the mining
5 site would be utilized year round.” Record 47. In addition, a staff member
6 directly addressed the year-round mining clarification as part of an oral staff
7 report. Pursuant to ORS 197.763(6)(a), petitioners requested, and the county
8 commissioners granted, an extended open record period of an additional 12
9 days.¹⁰ Intervenor argues that petitioners easily could have raised the issue of
10 whether a new application should be required under DCC 22.34.040(B) during
11 that 12-day open record period, but did not.

12 We think it would be unfair to expect petitioners to discover the
13 “clarification” in the November 7, 2014 supplemental burden of proof, which
14 was not received by the county until November 11, 2014 and made available to
15 the parties for the first time at the November 12, 2014 hearing, in time to raise
16 an objection under DCC 22.34.040(B) at the November 12, 2014 public
17 hearing. But petitioners asked that the record be held open for 12 days
18 following the close of the hearing on November 12, 2014. The relevant
19 question under the second sentence of 197.835(4)(a), *see* n 8, becomes whether

¹⁰ ORS 197.763(6)(a) provides:

“Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments or testimony regarding the application. The local hearings authority shall grant such request by continuing the public hearing * * * or leaving the record open for additional written evidence, arguments or testimony * * *.”

1 the issues petitioners raise under their first assignment of error “could have
2 been raised” during that 12 day open record period.

3 Even if we assume for purposes of this opinion that the county should
4 have listed DCC 22.34.040(B) as an approval criterion in its notice of hearing
5 on remand, any error in that regard was rendered harmless because petitioners
6 could have raised the DCC 22.34.040(B) issue they attempt to raise in the first
7 assignment of error during the 12 day extended record period, and did not do
8 so. Therefore, under the last sentence of ORS 197.835(4)(a), we conclude that
9 the issue is not within our scope of review under ORS 197.835(3) because the
10 issue could have been raised before the local government.

11 The first assignment of error is denied.

12 **SECOND ASSIGNMENT OF ERROR**

13 Petitioners argue that the county’s decision not to expand the impact area
14 beyond one-half mile from the proposed mine is not supported by adequate
15 findings based on substantial evidence.

16 **A. Applicable Law**

17 As we explained in the prior appeals, OAR 660-023-0180(5) sets out the
18 procedures and standards for determining whether to allow mining of a
19 significant mineral resource via a post-acknowledgement plan amendment.
20 OAR 660-023-0180(5)(a) includes a requirement to determine an “impact area”
21 in order to identify conflicts with the proposed mine.¹¹ Generally, the rule

¹¹ OAR 660-023-0180(5)(a) provides:

“The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be

1 limits the size of the "impact area" to 1,500 feet from the mining area, unless
2 "*factual information indicates significant potential conflicts beyond this*
3 *distance.*" (Emphasis added.) In the present case, the county chose an impact
4 area of one-half mile (or 2,640 feet) from the property boundary of the tract
5 that includes the mining site, instead of the initial maximum 1,500 foot impact
6 area required by OAR 660-023-0180(5)(a), because the half-mile distance
7 corresponded to the Surface Mining Impact Area (SMIA) overlay zone. Under
8 OAR 660-023-0180(5)(b), once the county determines the impact area to be
9 studied, the county then determines if the proposed mining results in any
10 conflicts with certain existing or approved land uses within the impact area.¹²

limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site."

¹² OAR 660-023-0180(5)(b) provides in relevant part:

"The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, 'approved land uses' are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

"(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities

1 As applicable here, those uses include "Goal 5 resource sites within the impact
2 area that are shown on an acknowledged list of significant resources and for
3 which the requirements of Goal 5 have been completed * * * [and] agricultural
4 practices[.]" OAR 660-023-0180(5)(b)(D)-(E). As relevant here, in order for
5 the county to be compelled to expand the impact area for this application, there
6 must be substantial evidence in the record that significant potential conflicts
7 beyond the selected one-half mile impact area exist, and such conflicts are with
8 either an acknowledged significant Goal 5 resource or agricultural practices.

9 **B. Impacts to Sage Grouse Generally**

10 Petitioners argue that the county failed to assess impacts on sage grouse
11 in determining whether the impact area should be expanded beyond one-half
12 mile. Petition for Review 17. Petitioners assert that this was improper because
13 "it ignores the previous LUBA decision stating that impacts on sage grouse are
14 relevant to the assessment of impacts on agricultural operations and because
15 the 'designation of an impact area and the assessment of conflicts with
16 agricultural practices within the impact area are sometimes interrelated.'"
17 Petition for Review 16, *quoting Nash*, 63 Or LUBA at 29-30.

(e.g., houses and schools) that are sensitive to such
discharges;

"* * * * *

"(D) Conflicts with other Goal 5 resource sites within the impact
area that are shown on an acknowledged list of significant
resources and for which the requirements of Goal 5 have
been completed at the time the PAPA is initiated;

"(E) Conflicts with agricultural practices[.]"

1 Intervenor responds that the bulk of all sage grouse related issues were
2 resolved in *Nash* or *Walker I* or *II*, and any additional argument that the one-
3 half mile impact area must be extended based on potential impacts on sage
4 grouse has been waived. Intervenor's Brief 21. Intervenor asserts that "[t]he
5 only remaining sage grouse issue is the Nashes' argument that the proposed
6 mine's noise and blasting impacts to sage grouse could cause a resulting
7 conflict to agriculture." *Id.*

8 We agree with intervenor. Although we did note in *Nash* the interrelated
9 nature of determining the scope of the impact area, and possible conflicts with
10 existing uses, our last remand was relatively narrow in scope, and resolved all
11 issues regarding whether the impact area should be extended beyond one-half
12 mile based on direct sage grouse impacts. Based on the issues conclusively
13 decided in prior appeals and our narrow remand in *Nash*, the only remaining
14 sage grouse related issue is whether mining may cause sage grouse within the
15 impact area to relocate to other areas that are used for grazing, with the result
16 BLM may take actions that in turn will impose limitations that result in
17 conflicts with agricultural practices. *Beck v. City of Tillamook*, 313 Or 148,
18 831 P2d 678 (1992). We address that question later in this opinion.

19 This sub-assignment of error is denied.

20 C. Noise Effects on Cattle

21 Petitioners argue that the record does not include substantial evidence to
22 support the board of commissioner's findings that there are not any noise
23 impacts to cattle that would justify a further expansion of the impact area under
24 OAR 660-023-0180. As noted above, under OAR 660-023-0180(5)(a), a
25 petitioner must establish that "factual information indicates significant
26 potential conflicts" with agricultural practices such that the 1,500 foot impact

1 area should be enlarged. Petitioners argue that the county erred in determining
2 that there were no such conflicts.

3 To support its conclusion that the 1,500 foot impact area, which has
4 already been extended to one-half mile, need not be further extended, the
5 county considered the testimony of Steven Roth, who is a full time rancher and
6 the current holder of the Nashes' prior grazing rights on the Flat Pasture. Roth
7 submitted testimony that indicated he has prior experience grazing cattle in
8 proximity to mining operations including another mine operated by the
9 applicant. Based on these experiences, Roth testified that he did not believe
10 there would be any conflict between surface mining and his grazing use of the
11 Flat Pasture. Record 10. The county noted that it considered Roth's testimony
12 to be more compelling than other conflicting testimony because he is the
13 current holder of the grazing rights and appears to be the closest agricultural
14 operator to the proposed mine site. *Id.* The county concluded that Roth's
15 testimony constitutes substantial evidence.

16 In addition to Roth's testimony, the county depended on the testimony of
17 Roger Borine, who submitted testimony that management techniques are
18 currently used on the portion of Flat Pasture adjacent to the mine to prevent
19 cattle from grazing near the mine. Under those management techniques cattle
20 are redirected to the southwest portion of the pasture. Record 11. Borine also
21 noted that based on a site-specific sound study previously submitted by the
22 applicant, noise impacts outside of the half-mile impact area should be
23 negligible. The county also noted that the applicant's sound study contained
24 empirical data that the opposition's contrary testimony and evidence lacked. In
25 addition, the county depended on several conditions of approval to mitigate
26 noise, dust traffic and other impacts to prevent additional impacts beyond the

1 impact area, in concluding that there is insufficient justification to expand the
2 one-half mile impact area and that factual information did not indicate any
3 significant potential conflicts. Record 10-11.

4 Petitioners argue that the testimonies of Roth and Borine do not
5 constitute substantial evidence. Petitioners argue that Roth's opinion is
6 insufficient, as he is merely a current lease holder of the grazing rights that had
7 been under the Nashes' control in prior proceedings. Moreover, petitioners
8 argue that Roth's reference to other mining operations and a lack of resulting
9 impacts to agricultural practices is not sufficient to provide an adequate factual
10 basis for the county's decision. Petitioners also take issue with Borine's
11 testimony, arguing that it does not address whether nearby grazing allotments
12 will be in fact impacted by mining, but merely states that the current operator
13 of the allotment avoids the area. Petitioners also argue that the county's
14 dependence on conditions of approval are an insufficient basis to support its
15 finding, where the county's findings were "inappropriately conclusory and fail
16 to explain how the conditions lead to the specific conclusion that one-half mile
17 is adequate." Petition for Review 19.

18 Intervenor responds that the county properly chose to rely on the
19 testimonies of Roth and Borine, both of whom concluded the mine did not
20 present a conflict with cattle. The county noted that prior testimony (including
21 the Nashes') conflicts with Roth's but explained that the county board found
22 Roth's testimony to be credible and to constitute substantial evidence. Record
23 10. The county considered Roth's testimony to indicate that "no conflicts
24 [exist] between agricultural operations either in close proximity to the proposed
25 mine or outside the half mile impact area on either the Horse Ridge Flat Pasture
26 or other lands." *Id.*

1 Here, the county was presented with testimony from two individuals who
2 are familiar with the property and grazing operations. Intervenor argues that
3 petitioners provided no substantial evidence to discredit the testimonies of
4 Roth and Borine regarding possible mining impacts on grazing. Intervenor
5 explains that due to Roth's experience as a rancher on BLM lands adjacent to
6 active mining operations, his testimony is evidence that a reasonable person
7 would rely on and thus constitutes substantial evidence. Intervenor also notes
8 that Borine is a professional farming and wildlife habitat consultant who is
9 knowledgeable about grazing management, and thus his corroborating
10 testimony constitutes substantial evidence. Although petitioners argue that Mr.
11 Borine's noise study makes "undocumented assessments on whether cattle will
12 be affected by the proposed blasting and other operations" (Petition for Review
13 18), in our view, Borine's assessment is sufficiently developed to constitute
14 substantial evidence. Moreover, it bears repeating that OAR 660-023-0180
15 provides a default maximum impact area of only 1500 feet. Only when a
16 petitioner demonstrates that "factual information indicates significant potential
17 conflicts" exist beyond that 1500 foot area is expansion potentially required by
18 the rule. Petitioners' critique of the evidence the board of commissioners relied
19 on is not sufficient to establish that the county's decision is not supported by
20 substantial evidence.

21 This sub-assignment of error is denied.

22 The second assignment of error is denied.

23 **THIRD ASSIGNMENT OF ERROR**

24 Petitioners argue that the county's decision that sage grouse are not
25 going to be impacted in a way that will cause the sage grouse to relocate, with

1 resulting possible conflicts with agricultural practices, is not supported by
2 adequate findings that are based on substantial evidence.

3 **A. Standing and Mootness**

4 Petitioners first argue that the county improperly restricted standing on
5 this issue to the Nashes and Roth because of their status as property owners or
6 leaseholders.¹³ Petitioners assert that the county failed to cite any authority for
7 that proposition and that OAR 660-023-0180 does not in any way suggest that
8 standing to present arguments at LUBA in this appeal is limited to property
9 owners or lease holders.

10 This assignment of error challenges the board of commissioners'
11 findings regarding the second basis for remand in *Nash*. The county's novel
12 theory that because petitioners are not the owner of the property they lack
13 standing to challenge the county's response to our second basis for remand is
14 without merit, as is its undeveloped suggestion that the issue is moot.
15 However, intervenor points out that the county adopted alternative findings that

¹³ The board of commissioners found:

"At the outset, the Board finds that only the Nashs or Stephen Roth have standing to address this issue given DCC 22.34.030 and LUBA's specific references to impacts on the Nashs in its directive to the County. Neither Keith nor Janet Nash participated in the instant proceedings and most other parties testifying on sage grouse had not participated in the prior proceedings. In the alternative, the issue may be moot because the Nashs did not participate in the instant proceedings, the Nashs sold most of their land interests to Stephen Roth (including the disputed Horse Ridge Flat Pasture), there is no evidence in the record that the Nashs still own cattle or run an agricultural operation, and Mr. Roth has expressed support for the proposal." Record 11-12.

1 potential impacts to sage grouse do not result in conflicts with agricultural
2 operations. Those findings render the error the board of commissioners
3 committed in finding that the issue presented in this assignment of error is
4 moot, or that petitioners lack standing to present the issue, harmless error.

5 This sub-assignment of error is denied.

6 **B. Impact of Fleeing Sage Grouse on Agricultural Practices**

7 In *Nash*, 63 Or LUBA at 36, we described petitioners' argument
8 regarding impacts to sage grouse to be that:

9 "the proposed mining will cause sage grouse to leave the mining
10 area and flee to petitioners' grazing lands for winter habitat, as
11 opposed to ending up on some other land, and * * * that the BLM
12 will then reduce petitioners' grazing operation on Flat Pasture[.]"

13 After noting that the county failed to address that argument, we directed the
14 county to consider:

15 "in determining whether the proposed mine conflicts with
16 petitioners' agricultural operations, effects of the proposed mine
17 on sage grouse that winter in the impact area and the possibility
18 that such effects could lead to a reduction in lands available for
19 grazing for petitioners' cattle." *Id.*

20 We summarized the remand as requiring the county:

21 "to evaluate any conflicts with petitioners' agricultural operations
22 in the impact area that the county designates, including whether
23 the proposed mine would cause sage grouse to abandon the area
24 and seek winter habitat on petitioners' other allotments." *Id.* at 37.

25 In *Walker II*, we noted that, "impacts on sage grouse habitat in general are not
26 in themselves relevant for purposes of determining the impact area under OAR
27 660-023-0180(5)(a) and evaluating conflicts with identified Goal 5 resources
28 under OAR 660-023-0180(5)(b)(E)." *Walker II*, 59 Or LUBA at 497-98. We
29 determined that because only the sage grouse's lek is identified on the county's

1 list of significant Goal 5 resources, any conflict between the proposed mining
2 and other sage grouse habitat is irrelevant for analysis under OAR 660-023-
3 0180(5)(a), absent a connection with another identified Goal 5 resource. *Id.*

4 Petitioners now argue that the county erred in excluding consideration of
5 impacts to sage grouse with regard to conflicts with agricultural operations.
6 Petitioners asserted below and assert at LUBA that the county needs to perform
7 a cumulative effects analysis of sage grouse impacts that affect agricultural
8 practices. In addition, petitioners argue that the county's assessment of impacts
9 on sage grouse was improperly limited to "wintering sage grouse," as the
10 county failed to identify any impacts based on the grouses' use of the impact
11 area in spring, summer and fall, but permitted the application to be clarified in
12 a way that allowed year-round operations. Petitioners also argue that the
13 county improperly rejected evidence indicating that sage grouse are in the
14 vicinity, disregarding such evidence because it came from "dated studies."
15 Petition for Review 23. Petitioners point to several government documents as
16 evidence that the county ignored, including a United States Geological Survey
17 (USGS) report on sage grouse impacts (Record 84), an Oregon Department of
18 Fish and Wildlife letter calling for a 3-mile radius around occupied leks
19 (Record 74), and a Bureau of Land Management (BLM) draft environmental
20 impact statement, which is not in the record.

21 As noted above, intervenor responds that the majority of all sage grouse
22 related issues were resolved in or before *Nash* and any unresolved sage grouse
23 related issues could have been raised in prior proceedings and are thus waived.
24 *Beck*. Intervenor argues that the only remaining issue is whether mining will
25 result in sage grouse relocating to nearby grazing areas such that BLM will

1 impose additional, and conflicting, limitations on such grazing. Intervenor's
2 Brief 32.

3 Intervenor points out that the record shows that the only site-specific
4 sage grouse survey revealed no sage grouse activity in the vicinity of the mine.
5 Intervenor also explains that the county depended on Roth's oral testimony that
6 he already manages for sage grouse, hence the presence of relocated sage
7 grouse would not present a conflict with his agriculture operation. Roth
8 testified that based on his management and limited grazing season of one and
9 one-half months per year, he did not think that BLM would restrict his grazing
10 rights. Intervenor points out that the Flat Pasture allows for only 150 cattle on
11 over 5,000 acres for a month and a half.

12 The county considered, and we agree, that the remand was limited to
13 consideration of sage grouse impacts to the extent that noise and blasting from
14 the mine might cause sage grouse to relocate and in turn impact agricultural
15 practices through possible BLM curtailment of Roth's (and the Nashes'
16 previous) grazing rights. The evidence cited by petitioners is directed at
17 possible conflicts between mining and sage grouse generally and does not
18 directly address the more limited question presented in our second basis for
19 remand in *Nash*.

20 Based on the above evidence and testimony, we determine that the
21 county did not err in its analysis that there will be no conflicts with agriculture
22 under OAR 660-023-0180(5)(b)(E) that could be attributed to relocating sage
23 grouse and resultant BLM actions to limit grazing. The county found, and we
24 agree, that based on the record in this appeal, the arguments regarding such
25 conflicts are too speculative to establish that there will be such conflicts with
26 agricultural practices under OAR 660-023-0180(5)(b)(E).

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SEP 23 2025
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- 1 Petitioners' third assignment of error is denied.
- 2 The county's decision is affirmed.

Certificate of Mailing

Received
SEP 23 2025

OWRD

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2015-011/012 on August 17, 2015, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

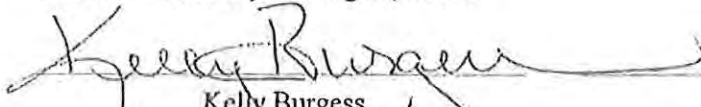
Laurie E. Craghead
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Bend, OR 97701

Sharon R. Smith
Bryant Lovlien & Jarvis PC
591 SW Mill View Way
Bend, OR 97702

Tammera Walker
PO Box 871124
Wasilla, AK 99687

Dated this 17th day of August, 2015.



Kelly Burgess
Paralegal

Kristi Seyfried
Executive Support Specialist

Anita Huffman

From: Laura Snedaker
Sent: Friday, May 25, 2007 8:01 AM
To: Anita Huffman
Subject: Documentary Evidence for Application G-16403 (Robinson - 4R Equipment)

June
Received
SEP 23 2025
OWRD

Anita:

On May 21, 2007, we received documentary evidence of use of credits for ground water application G-16403 in the name of Ron Robinson, 4R Equipment. The Documentary Evidence form identifies that 4.2 mitigation credits are to be assigned to this ground water application from MP-27 to satisfy its mitigation obligation.

This ground water application has a mitigation obligation of 4.2 AF in the General Zone of Impact.

MP-27 is a permanent instream transfer (T-9824) that generated mitigation credits that may be used in the General and Middle Deschutes Zone of Impact. Credits were awarded to this project as part of the issuance of instream water right Certificate 81324. 4R Equipment (Ron Robinson) is one of several mitigation credit holders under this project. This account contains sufficient mitigation credits to satisfy the mitigation obligation of ground water permit application G-16403. Therefore, 4.2 mitigation credits have been removed from the 4R Equipment account and assigned to application G-16403. Once the permit for this application is issued, these credits will be considered used and no longer valid.

Thanks, Laura

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

5/25/2007

Township: 19 S, Range: 15 E, Sections: 30

Well Log	Details	T-R-S/ QQ-Q	Textot	Street of Well	Owner	Owner Nbr	Company	Co. Nbr	Special Standards	Well Type	First Water	Completed Depth	Static Water Level	Yield	Completed Date	Received Date	Bonded Constructor	Startcard	Well Id #	New	Abandon	Deepen	Alteration	Conversion	Domestic Irrigation	Community	Livestock	Industrial	Injection	Thermal	Dewatering	Piezometer	Latitude/ Longitude	
DESC 56538	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B1		G	0.00				02/24/2004	02/24/2005			✓	✓													43.8914, -120.9806	
DESC 56539	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B2		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8922, -120.9811
DESC 56540	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B3		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8911, -120.9817
DESC 56541	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B4		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8933, -120.9811
DESC 56542	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B5		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8942, -120.9819
DESC 56543	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B6		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8947, -120.9831
DESC 56544	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B7		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8950, -120.9839
DESC 56545	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B8		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8956, -120.9850
DESC 56546	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B9		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8958, -120.9856
DESC 56547	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B10		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8950, -120.9856
DESC 56548	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B11		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8950, -120.9858
DESC 56549	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B12		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8942, -120.9850
DESC 56550	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B13		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8939, -120.9853
DESC 56551	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B14		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8936, -120.9858
DESC 56552	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B15		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8944, -120.9842
DESC 56553	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B16		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8947, -120.9836
DESC 56554	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B17		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8944, -120.9836
DESC 56555	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B18		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8939, -120.9836
DESC 56556	Details	19.00S-15.00E-30 -		57600 SPENCER WELLS RD			4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708	B19		G	0.00				02/24/2004	02/24/2005			✓	✓														43.8931, -120.9836

**Oregon Water Resources Department
Water Right Services Division**

Water Rights Application
Number G-16403

**Final Order
Extension of Time for Permit Number G-16243
Permit Holder: 4-R Equipment**

Permit Information

Application File G-16403 Permit G-16243
Basin: 5 – Deschutes / Watermaster District 11
Date of Priority: March 7, 2005

Authorized Use of Water

Source of Water: Well 1 in Dry River Basin
Purpose of Use: Industrial Use (Gravel Mining)
Maximum Rate: 1.0 Cubic Foot per Second (cfs), further limited to 6.0 acre
feet (AF) per year

**This Extension of Time request is being processed in accordance with
Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative
Rule Chapter 690, Division 315**

Application History

Permit G-16243 was issued by the Department on November 1, 2007. The permit called for completion of construction and complete application of water to beneficial use by October 1, 2012. On September 17, 2012, 4-R Equipment submitted to the Department an Application for Extension of Time for Permit G-16243. In accordance with OAR 690-315-0050(2), on July 23, 2013, the Department issued a Proposed Final Order proposing to extend the time to complete construction and the time to fully apply water to beneficial use to October 1, 2022. The protest period closed September 6, 2013, in accordance with OAR 690-315-0060(1). No protest was filed.

Final Order: Permit G-16243

Page 1 of 3

Appeal Rights

This is a final order in other than a contested case. This order is subject to judicial review under ORS 183.484. A request for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either file for judicial review, or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

Findings of Fact

The Department adopts and incorporates by reference the findings of fact in the Proposed Final Order dated July 23, 2013.

At time of issuance of the Proposed Final Order the Department concluded that, based on the factors demonstrated by the applicant, any comments received, and information within the file, the permit may be extended subject to the following conditions:

CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by **October 1, 2018. *A form will be enclosed with your Final Order.***

- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;
- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

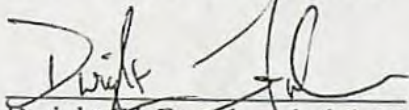
CONCLUSION OF LAW

The applicant has demonstrated good cause for the permit extension pursuant to ORS 537.630, 539.010(5) and OAR 690-315-0040(2).

Order

The extension of time for Application G-16403, Permit G-16243, therefore, is approved subject to conditions contained herein. The deadline for completing and for applying water to full beneficial use within the terms and conditions of the permit is extended from October 2012 to October 1, 2022.

DATED: September 20, 2013



Dwight W. French, Administrator
Water Right Services Division
for PHILLIP C. WARD, DIRECTOR

-
- If you have any questions about statements contained in this document, please contact Michele McAleer at (503) 986-0825.
 - If you have other questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at (503) 986-0900
-



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Extension of Time Progress Report Form For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: 4-R Equipment

Application G-16403
Permit G-16243

Report Due no later than October 1, 2018

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

Progress Report Form for 2018

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and perfections of Permit G-16243. FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION BEING DENIED.

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2012 and October 1, 2018	FINANCIAL INVESTMENT

2. Compliance with terms and conditions of the permit and/or previous extension.
3. Total number of acres irrigated to date= _____ (if applicable)
4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, made to date.
- Maximum rate used to date = _____ cfs (cubic feet per second), or
Maximum rate used to date = _____ gpm (gallons per minute), or
Acre Feet stored to date = _____ AF
- Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). Do not provide daily, monthly or annual water volume totals.*

INCOMPLETE REPORTS WILL BE RETURNED. AN ANSWER IS REQUIRED IN EACH ITEM. USE N/A FOR ITEM 3 IF THE USE IS NOT IRRIGATION.

Signature _____ Date _____

Mailing List for Extension FO Copies

Note: Include a copy of the "Important Notice" document along with the original copy of the Final Order being sent to the permit holder.

FO Date: September 20, 2013

Copies Mailed

Application G-16403

By: SH

Permit G-16243

On: 9-20-13

Original mailed to permit holder

4-R Equipment
Ron Robinson Jr. ✓
PO Box 5006
Bend, OR 97708

Copies sent to:

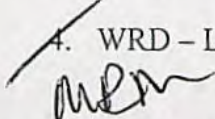
1. WRD - App. File G-16403/ Permit G-16243 ✓
2. John Short, Water Right Services, LLC., P. O. Box 1830, Bend, OR 97709 ✓

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving notification via e-mail - FO available in WRIS for review

(DONE BY EXTENSION SPECIALIST)

4. WRD - Laura Wilke - Permits with mitigation requirements


If Progress Reports are included:

(DONE BY EXTENSION SPECIALIST) * 2018 only

Add record to Progress Report tracking sheet.xls Done: by MRM Date 9/21/13

CASEWORKER: MRM



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Extension of Time Progress Report Form For Checkpoints

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

Permit Holder: 4-R Equipment

Application G-16403
Permit G-16243

Report Due no later than October 1, 2018

DO NOT SUBMIT PRIOR TO 30 DAYS BEFORE DUE DATE

Progress Report Form for 2018

As authorized in ORS 690-315-0050(6), this progress report is required in order to ensure diligence is exercised in the development and
perfections of Permit G-16243. FAILURE TO SUBMIT THIS REPORT WILL MOST LIKELY RESULT IN ANY FUTURE EXTENSION
BEING DENIED.

INSERT DATES	LIST ALL WORK ACCOMPLISHED and FINANCIAL INVESTMENTS For the period of time between October 1, 2012 and October 1, 2018	FINANCIAL INVESTMENT

2. Compliance with terms and conditions of the permit and/or previous extension.

3. Total number of acres irrigated to date= _____ (if applicable)

4. Provide the maximum rate, or duty if applicable, of water diverted for beneficial use under this permit, if any, made to date.

Maximum rate used to date = _____ cfs (cubic feet per second), or

Maximum rate used to date = _____ gpm (gallons per minute), or

Acre Feet stored to date = _____ AF

Report the rate in the same units of measurement as specified in the permit, being cfs (cubic feet per second), gpm (gallons per minute) or AF (acre-feet). Do not provide daily, monthly or annual water volume totals.

INCOMPLETE REPORTS WILL BE RETURNED. AN ANSWER IS REQUIRED IN EACH ITEM. USE N/A FOR ITEM 3 IF THE USE IS NOT IRRIGATION.

Signature _____ Date _____

**Oregon Water Resources Department
Water Right Services Division**

Application for Extension of Time

In the Matter of the Application for an Extension of Time)
for Permit G-16243, Water Right Application G-16403)
in the name of 4-R Equipment) **PROPOSED FINAL ORDER**

Permit Information

Application File G-16403 Permit G-16243

Basin: 5 – Deschutes / Watermaster District 11

Date of Priority: March 7, 2005

Authorized Use of Water

Source of Water: Well 1 in Dry River Basin

Purpose of Use: Industrial Use (Gravel Mining)

Maximum Rate: 1.0 cubic foot per second (cfs), further limited to 6.0 acre
feet (AF) per year

**This Extension of Time request is being processed in accordance with
Oregon Revised Statute 537.630 and 539.010(5), and Oregon Administrative
Rule Chapter 690, Division 315**

***Please read this Proposed Final Order in its entirety as it contains
additional conditions not included in the original permit.***

This Proposed Final Order applies only to Permit G-16243, water right Application G-16403.
A copy of Permit G-16243 is enclosed as Attachment 1.

Summary of Proposed Final Order for Extension of Time

The Department proposes to:

- Grant an extension of time for complete construction of the water system and time to apply water to full beneficial use from October 1, 2012 to October 1, 2022.
- Make the extension subject to certain conditions set forth below.

ACRONYM QUICK REFERENCE

Department – Oregon Department of Water Resources
PFO – Proposed Final Order

Units of Measure

cfs – cubic feet per second
gpm – gallons per minute

AUTHORITY

Generally, see ORS 537.630 and OAR Chapter 690 Division 315.

ORS 537.630(1) provide in pertinent part that the Oregon Water Resources Department (Department) may, for good cause shown, order an extension of time within which: irrigation or other works shall be completed; the well or other means of developing and securing ground water shall be completed; or the right perfected. In determining the extension, the Department shall give due weight to the considerations described under ORS 539.010(5) and to whether other governmental requirements relating to the project have significantly delayed completion of construction or perfection of the right.

ORS 539.010(5) provides in pertinent part that the Water Resources Director, for good cause shown, may extend the time within which the full amount of the water appropriated shall be applied to a beneficial use. This statute instructs the Director to consider: the cost of the appropriation and application of the water to a beneficial purpose; the good faith of the appropriator; the market for water or power to be supplied; the present demands therefore; and the income or use that may be required to provide fair and reasonable returns upon the investment.

OAR 690-315-0040 provides in pertinent part that the Water Resources Department shall make findings to determine if an extension of time may be approved to complete construction and/or apply water to full beneficial use.

OAR 690-315-0050(5) states that extension orders may include, but are not limited to, any condition or provision needed to: ensure future diligence; mitigate the effects of the subsequent development on competing demands on the resource; and periodically document the continued need for the permit.

OAR 690-315-0050(6) requires the Department, for extensions exceeding five years, to establish checkpoints to determine if diligence is being exercised in the development and perfection of the water use permit. Intervals between checkpoints will not exceed five year periods.

FINDINGS OF FACT

Background

1. Permit G-16243 was granted by the Department on November 1, 2007. The permit authorizes the use of up to 1.0 cfs, further limited to 6.0 AF per year of water from Well 1 in Dry River Basin for industrial use (gravel mining). The permit specified construction of the water system and complete application of water was to be made on or before October 1, 2012.
2. The permit holder submitted an "Application for Extension of Time" to the Department on September 17, 2012 requesting the time to complete construction of the water system and the time to apply water to full beneficial use under the terms and conditions of Permit G-16243 be extended from October 1, 2012 to October 1, 2022. This is the first permit extension requested for Permit G-16243.
3. Notification of the Application for Extension of Time for Permit G-16243 was published in the Department's Public Notice dated September 25, 2012. No public comments were received regarding the extension application.

Review Criteria [OAR 690-315-0040]

The time limits to complete construction and/or apply water to full beneficial use may be extended if the Department finds that the permit holder has met the requirements set forth under OAR 690-315-0040. This determination shall consider the applicable requirements of ORS 537.230¹, 537.248², 537.630³ and/or 539.010(5)⁴.

Complete Extension of Time Application [OAR 690-315-0040(1)(a)]

4. On September 17, 2012, the Department received a completed Application for Extension of Time and the fee specified in ORS 536.050 from the permit holder.

Start of Construction [OAR 690-315-0040(1)(b) and 690-315-0040(5)]

5. Senate Bill 300 (1999 legislation) eliminated the requirement that holders of new surface water and ground water permits start construction on water projects within one year after the Department issues the permit. Senate Bill 300 applies to any application for a permit filed after October 23, 1999, including this application.

¹ORS 537.230 applies to surface water permits only.

²ORS 537.248 applies to reservoir permits only.

³ORS 537.630 applies to ground water permits only.

⁴ORS 539.010(5) applies to surface water and ground water permits.

Duration of Extension [OAR 690-315-0040(1)(c)]

Under OAR 690-315-0040(1)(c), in order to approve an extension of time for water use permits the Department must find that the time requested is reasonable and the applicant can complete the project within the time requested.

6. As of September 17, 2012, the remaining work to be completed consists of completing construction of the water system and applying water to full beneficial use.
7. Given the amount of development left to occur, the Department has determined that the permit holder's request to have until October 1, 2022, to complete construction of the water system and to accomplish the application of water to beneficial use under the terms and conditions of Permit G-16243 is both reasonable and necessary.

Good Cause [OAR 690-315-0040(1)(d)]

The Department's determination of good cause shall consider the requirements set forth under OAR 690-315-0040(2).

Reasonable Diligence of the Appropriator [OAR 690-315-0040(2)(a)]

The Department's determination of reasonable diligence shall consider the requirements set forth under OAR 690-315-0040(3)(a-d). In accordance with OAR 690-315-0040(3), the Department shall consider, but is not limited to, the following factors when determining whether the applicant has demonstrated reasonable diligence in previous performance under the permit:

Amount of Construction [OAR 690-315-0040(3)(a)]

8. Work was accomplished within the time allowed in the permit or previous extension as follows:
 - a. Construction of the well was not completed prior to October 1, 2012.

Beneficial Use of Water [OAR 690-315-0040(3)(b)]

9. The following beneficial use of water was made during the permit or previous extension time limits:
 - a. Since the issuance of Permit G-16243 on November 1, 2007, no water has been appropriated from the well for commercial use (gravel mining).
 - b. Delay of full beneficial use of water under Permit G-16243 was due, in part, to legal issues which the permit holder must address prior to beginning construction or use of water as authorized under Permit G-16243.

Compliance with Conditions [OAR 690-315-0040(3)(c)]

10. The water right permit holder's conformance with the permit or previous extension conditions.
 - a. The Department has considered the permit holder's compliance with conditions, including mitigation requirements, and did not identify any concerns.

Financial Investments [OAR 690-315-0040(3)(d)]

11. Financial investments made toward developing the beneficial water use.
 - a. As of September 17, 2012, the permit holder has invested approximately \$121,000, which is approximately 38 percent of the total projected cost for complete development of this project.

Cost to Appropriate and Apply Water to a Beneficial Purpose [OAR 690-315-0040(2)(b)]

12. The permit holder anticipates an additional \$200,000 investment is needed for the completion of this project.

Good Faith of the Appropriator [OAR 690-315-0040(2)(c)]

13. The Department has found good faith of the appropriator under Permit G-16243.

The Market and Present Demands for Water [OAR 690-315-0040(2)(d-e)]

The Department's determinations of market and present demand for water or power to be supplied shall consider the requirements set forth under OAR 690-315-0040(4)(a-f). In accordance with OAR 690-315-0040(4), the Department shall consider, but is not limited to, the following factors when determining the market and the present demand for water or power to be supplied:

14. The amount of water available to satisfy other affected water rights and scenic waterway flows; special water use designations established since permit issuance, including but not limited to state scenic waterways, federal wild and scenic rivers, serious water management problem areas or water quality limited sources established under 33 U.S.C. 1313(d); or the habitat needs of sensitive, threatened or endangered species, in consultation with the Oregon Department of Fish and Wildlife [OAR 690-315-0040(4)(a-c)].
 - a. The amount of water available to satisfy other affected water rights and scenic waterway flows was determined at the time of issuance of Permit G-16243; furthermore, water availability for other affected water rights and scenic waterway flows after the permit was issued is determined at such time that such application for a new water right is submitted. The point of appropriation for Permit G-16243, located within the Dry River Basin Basin, is not located within a limited or critical ground water area. Dry River Basin is located within or above any state or federal scenic waterway, however it is located within an area ranked "moderate" for stream flow restoration needs as determined by the Department in consultation with the Oregon Department of Fish and Wildlife, and is located within a Sensitive, Threatened or Endangered Fish Species Area as identified by the Department in consultation with Oregon Department of Fish and Wildlife. Dry River Basin is not listed by the Department of Environmental Quality as a water quality limited stream.

15. Economic investment in the project to date [OAR 690-315-0040(4)(d)].
 - a. As of September 17, 2012, the permit holder has invested approximately \$121,000.
16. Other economic interests dependent on completion of the project [OAR 690-315-0040(4)(e)].
 - a. None have been identified.
17. Other factors relevant to the determination of the market and present demand for water and power [OAR 690-315-0040(4)(f)].
 - a. None have been identified.
18. OAR 690-315-0050(6) requires the Department to place a checkpoint condition on this extension of time in order to ensure diligence is exercised in the development and perfection of the water use permit. A "Checkpoint Condition" is specified under Item 1 of the "Conditions" section of this PFO to meet this condition.

Fair Return Upon Investment [OAR 690-315-0040(2)(f)]

19. Use and income from the permitted water development will likely result in reasonable returns upon the investment made to date.

Other Governmental Requirements [OAR 690-315-0040(2)(g)]

20. Delay in the development of this project was not caused by any other governmental requirements.

Unforeseen Events [OAR 690-315-0040(2)(h)]

21. Unforeseen events extended the length of time needed to fully develop and perfect Permit G-16243, in that the permit holders were faced with legal issues that restricted their ability to complete development of the project in a timely manner.

CONCLUSIONS OF LAW

1. The applicant is entitled to apply for an extension of time to complete construction and/or completely apply water to the full beneficial use pursuant to ORS 537.630(1).
2. The applicant has submitted a complete extension application form and the fee specified in ORS 536.050, as required by OAR 690-315-0040(1)(a).
3. The applicant complied with begin actual construction timeline requirements pursuant to ORS 537.630 as required by OAR 690-315-0040(1)(b) and OAR 690-315-0040(5).

4. Completion of construction and full application of water to beneficial use can be accomplished by October 1,⁵, as required by OAR 690-315-0040(1)(c).
5. The Department has considered the reasonable diligence and good faith of the appropriator, the cost to appropriate and apply water to a beneficial purpose, the market and present demands for water to be supplied, the financial investment made and fair and reasonable return upon the investment, the requirements of other governmental agencies, and unforeseen events over which the permit holder had no control, whether denial of the extension will result in undue hardship to the applicant and whether there are no other reasonable alternatives for meeting water use needs, any other factors relevant to a determination of good cause, and has determined that the applicant has shown that good cause exists for an extension of time to apply water to full beneficial use pursuant to OAR 690-315-0040(1)(d).
6. As required by OAR 690-315-0050(6) and as described in Finding 18 above, the Department has established, as specified in the "Conditions" section of this PFO (Item 1), progress checkpoints in order to ensure future diligence is exercised in the development and perfection of Permit G-16243.

Proposed Order

Based upon the foregoing Findings of Fact and Conclusions of Law, the Department proposes to issue an order to:

Extend the time for complete construction of the water system and the time to apply water to beneficial use under Permit G-16243 from October 1, 2012 to October 1, 2022.

Subject to the following conditions:

CONDITIONS

1. Checkpoint Condition

The permit holder must submit a completed Progress Report Form to the Department by October 1, 2018. *A form will be enclosed with your Final Order.*

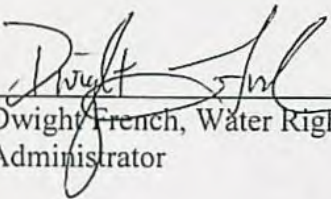
- (a) At each checkpoint, the permit holder shall submit and the Department shall review evidence of the permit holder's diligence towards completion of the

⁵Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permittee shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permittee shall submit a map of the survey and a new or revised claim of beneficial use as deemed appropriate by the Department.

project and compliance with terms and conditions of the permit and extension. If, after this review, the Department determines the permit holder has not been diligent in developing and perfecting the water use permit, or complied with all terms and conditions, the Department shall modify or further condition the permit or extension to ensure future compliance, or begin cancellation proceedings on the undeveloped portion of the permit pursuant to ORS 537.260 or 537.410, or require submission of a final proof survey pursuant to ORS 537.250;

- (b) The Department shall provide notice of receipt of progress reports in its weekly notice and shall allow a 30 day comment period for each report. The Department shall provide notice of its determination to anyone who submitted comments.

DATED: July 23, 2013


Dwight French, Water Right Services
Administrator

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

Proposed Final Order Hearing Rights

1. Under the provisions of OAR 690-315-0100(1) and 690-315-0060, the applicant or any other person adversely affected or aggrieved by the proposed final order may submit a written protest to the proposed final order. The written protest must be received by the Water Resources Department no later than **September 6, 2013**, being 45 days from the date of publication of the proposed final order in the Department's weekly notice.
2. A written protest shall include:
 - a. The name, address and telephone number of the petitioner;
 - b. A description of the petitioner's interest in the proposed final order and if the protestant claims to represent the public interest, a precise statement of the public interest represented;
 - c. A detailed description of how the action proposed in the proposed final order would adversely affect or aggrieve the petitioner's interest;
 - d. A detailed description of how the proposed final order is in error or deficient and how to correct the alleged error or deficiency;
 - e. Any citation of legal authority supporting the petitioner, if known;
 - f. Proof of service of the protest upon the water right permit holder, if petitioner is other than the water right permit holder; and
 - g. The applicant or non-applicant protest fee required under ORS 536.050.

3. Within 60 days after the close of the period for requesting a contested case hearing, the Director shall:
 - a. Issue a final order on the extension request; or
 - b. Schedule a contested case hearing if a protest has been submitted, and:
 - 1) Upon review of the issues, the Director finds there are significant disputes related to the proposed agency action; or
 - 2) The applicant submits a written request for a contested case hearing within 30 days after the close of the period for submitting protests.

-
- If you have any questions about statements contained in this document, please contact Michele McAleer at (503) 986-0825.
 - If you have questions about how to file a protest or if you have previously filed a protest and you want to know the status, please contact Patricia McCarty at 503-986-0819.
 - If you have any questions about the Department or any of its programs, please contact our Water Resources Customer Service Group at 503-986-0801.
 - Address any correspondence to : Water Right Services Division
725 Summer St NE, Suite A
Fax: 503-986-0901 Salem, OR 97301-1266
-

Mailing List for Extension PFO Copies

PFO Date: July 23, 2013

Copies Mailed

Application G-16403
Permit G-16243

By: CH
On: 7/23/13

Original mailed to Applicant:

4-R Equipment
PO Box 5006
Bend, OR 97708

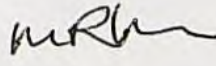
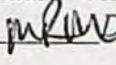
Copies sent to:

1. WRD - App. File G-16403/ Permit G-16243
2. John Short, Water Right Services, LLC., PO Box 1830, Bend, OR 97709

Fee paid as specified under ORS 536.050 to receive copy:

3. None

Receiving via e-mail (10 AM Tuesday of signature date) (DONE BY EXTENSION SPECIALIST)

4. ~~WRD - Watermaster District 11, Jeremy Giffen~~ 
5. WRD - Laura Wilke - Permit with mitigation requirements
Done by  Date 7/23/13

CASEWORKER: MRM

Extension PFO Checklist for
Other than Muni or Quasi-Municipal

Water Use Permits

(OAR 690-315-0010 through OAR 690-315-0060)

Application: G- 16403 Permit: G- 16243 Permit Amendment? No ☒ Yes ☐ T- ☐ pending ☐ approved

Permit Holder's Name: 4-R Equipment

Permit Holder's Mailing Address: P.O. Box 5006, Bend, OR. 97708 email

Phone Number: 541-382-4681

POD Location: Township 19S Range 15E Section 30 $\frac{1}{4}$ SESW

Drainage Basin: 5 County: Deschutes Watermaster District: 11 Watermaster: Jeremy Giffen

Date Permit was issued: 11/1/2007

Priority Date: 3/7/2005

Date of PN: 9/25/2012

Source: Well 1 in Dry River Basin

Use: Industrial Use (Gravel Mine)

"Q": 1.0 Cubic Foot Per Second, Further limited to 6.0 Acre Feet Per Year

Orig "A" Date:

Orig "B" Date: 10/1/

Orig "C" Date: 10/1/2012

Extension
request rec'd: 9/17/2012

Last Authorized
"B" Date: 10/1/

Last Authorized
"C" Date: 10/1/

Request Number (1, 2, 3...): 1

Proposed
"B" Date: 10/1/

Proposed
C Date: 10/1/2022

Conditions of Permit:

Condition Met?	Condition Not Met?	Permit Condition
☐	☒	Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Departments annually or more frequently.
☐	☒	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.
☐	☐	
☐	☐	
☐	☐	

Factors to consider in determining "Reasonable Diligence" [OAR 690-315-0040(3)]:

Yes No

- ☐ ☒ Work was accomplished within the time allowed in the permit or previous extension
- ☐ ☒ Water right permit holder conformed with the permit or previous extension conditions
- ☒ ☐ Financial investments were made toward developing the beneficial water use.

• Amount Invested to date: \$121,000 Estimated Remaining Cost: \$200,000

- ☐ ☒ Beneficial use made of the water during the permit or previous extension time limits

• Permit holder has beneficially used ☐ cfs ☐ gpm ☐ af of the total permitted quantity of water on acres

GW REVIEW: Y N

MITIGATION REVIEW: Y N

Has the applicant pursued perfection of the right in good faith and with reasonable diligence? Yes ☒ No ☐

Determination of the market and the present demand for water or power to be supplied:

Identify the closest surface water or localized water basin. Dry River Basin
Ground Water Permits: Is the POA located...
Surface Water Permits: Is the POD located...

Yes No

- ☒ ☒ above a state scenic waterway? Name Deschutes Scenic Waterway Source: OWRD "Areas Above State Scenic Waterways" Map
☐ ☒ within a stream segment designated as a federal wild and scenic river? Source: www.rivers.gov/wildriverslist.html
☐ ☒ within a sensitive, threatened or endangered species area Source: gisdata/dev/projects/salmon/div33map.html
☐ ☒ within a critical or limited Ground Water Area? Name of area Groundwater Study Area
☐ ☒ within a Withdrawn Area? Name of area
☐ ☒ in a waterbody listed on the DEQ Section 303(d) List of Water Quality Limited Areas? Date added to list
☒ ☐ within an area ranking ☐ low / ☒ moderate / ☐ high / ☐ highest for stream flow restoration needs Source: OWRD "Streamflow Restoration Needs" Maps (by region)

Based on the written record, can the Department make a finding of "Good Cause" to approve the extension request?

Yes... "Good Cause" can be found. ☒ Approval of Extension Request

No ... "Good Cause" cannot be found. ☐ Denial of Extension Request

Conditions to be included in Extension PFO (if applicable)? Yes ☐ No ☒

(NOTE: Check the file record for documentation to add a condition(s) at the extension stage.)

☒ 5-year Progress Report Checkpoints (Years: _____)

☐ Other: _____

Footnote regarding Claim of Beneficial Use. Choose the appropriate language below and insert as a footnote in the PFO:

☐ COBU Requirement - Surface/Ground Water - on or prior to July 9, 1987

"For permits applied for or received on or before July 9, 1987, upon complete development of the permit, you must notify the Department that the work has been completed and either: (1) Hire a water right examiner certified under ORS 537.798 to conduct a survey, the original to be submitted as required by the Water Resources Department, for issuance of a water right certificate; or (2) Continue to appropriate water under the water right permit until the Water Resources Department conducts a survey and issues a water right certificate under ORS 537.250 or 537.625."

☐ COBU Requirement - Surface Water - post July 9, 1987

"Pursuant to ORS 537.230(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

☒ COBU Requirement - Ground Water - post July 9, 1987

"Pursuant to ORS 537.630(4), upon the completion of beneficial use of water allowed under the permit, the permit holder shall hire a certified water rights examiner to survey the appropriation. Within one year after the complete application of water to a beneficial use (or by the date allowed for the complete application of water to a beneficial use), the permit holder shall submit a map of the survey and the claim of beneficial use."

NOTES:

Permittee has been working to get land use permits and has been involved with litigation.

Extension "PFO" Dates

Mailing / Issuance Date: 23 July 2013 Protest Deadline Date: Sept 6, 2013

Reviewer's Name: Nickie Amick Date: 7-16-2013

SEP 17 2012

SALEM, OR



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

Application for Extension of Time for a Water Right Permit (Non-Municipal / Non-Quasi-municipal Water Use)

TO THE DIRECTOR OF THE OREGON WATER RESOURCES DEPARTMENT

*A separate extension application must be submitted for each permit as per
OAR 690-315-0020(2).*

*This application and a summary of review criteria and procedures that are generally applicable to this
application are available at <http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml>.*

I, 4-R EQUIPMENT

NAME OF PERMIT HOLDER [OAR 690-315-0020(1) and (3)(a)]

P.O. BOX 5006

ADDRESS

CITY

BEND

STATE

OR

ZIP

97708

541-382-4681

PHONE

E-MAIL ADDRESS

the permit holder of:

Application Number G-16403

Permit Number G-16243

[OAR 690-315-0020(3)(b)]

do hereby request that the time in which to:

- ☐ complete construction (of diversion/appropriation works and/or purchase and installation of the equipment necessary to the use of water), which time now expires on October 1, ____, be extended to October 1, ____,
- ☒ N/A (Check this box if the permit does not specify a date by when construction must be completed.)

and/or the time in which to:

- ☒ apply water to full beneficial use under the terms and conditions of the permit, which time now expires on October 1, 2012, be extended to October 1, 2022.

Before submitting your Application for Extension of Time, make sure the following items are included:

- This completed Application for Extension of Time.
- Statutory fee of \$500.
- Signature page (last page of this Application for Extension of Time).
- All supporting documentation and/or evidence referenced in the Application for Extension of Time.

MAIL COMPLETED APPLICATION

along with the

\$500 STATUTORY FEE TO:

Water Resources Department
Attn: Water Right Permit Extensions
725 Summer Street NE, Suite A
Salem, Oregon 97301

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GENERAL TIPS:

- Permit holders of municipal or quasi-municipal water use permits DO NOT use this form. The correct form is *Application for Extension of Time for Municipal and Quasi-Municipal Water Use Permits*, available at the following link:
<http://www.wrd.state.or.us/OWRD/PUBS/forms.shtml#other>
- Request the reasonable amount of time necessary to fully complete the water construction project and/or to fully use the permitted quantity of water under the terms and conditions of your permit. Should this request be approved, it will be OWRD's expectation that you will complete your project within the new time period allowed. Future extensions may not be granted.
- A separate Application for Extension of Time must be submitted for each permit. OAR 690-315-0020(2).
- An instruction sheet (Instructions for Filling Out Extension of Time Application for Permits) provides details that will help you answer each question on the application. Permit extensions

are evaluated under OAR Chapter 690, Division 315. These rules may be viewed at:
<http://www.wrd.state.or.us/OWRD/LAW/index.shtml>.

- You may provide OWRD with any additional information or evidence that will aid us in making our decision. Please note that OWRD may require other information that is necessary to evaluate the application. OAR 315-0020(3)(n).
- After careful review of the Application for Extension of Time, you may contact OWRD at (503) 986-0900, to ask questions and request assistance from a Permit Extensions Specialist in the Water Rights and Adjudications Division.
- Once an Application for Extension of Time is received by OWRD, it will be reviewed for completeness. OWRD will return any incomplete or deficient applications to the applicant. OAR 690-315-0040(1)(a).

Reference Materials Needed to Complete this Application:

- The water right permit. If needed, a copy of the water right permit can be downloaded from the Department's Website at <http://www.wrd.state.or.us> (find the link to the Water Rights Information System (WRIS)). Or, a copy of the permit (or other documents) may be requested by water right application number from the Water Rights Division at 503-986-0900 (copy fees will apply).
- Documentation which demonstrates compliance with permit conditions (for example, well construction logs; static water level measurement reports; annual water use reports; ODFW fish screen certification; a plan to monitor the effect of water use on ground water aquifers utilized under the permit; etc.).

Answer the Following Questions to Complete this Application for Extension of Time

[OAR 690-315-0020(3)(d)]

1. Did the actual construction of the water system/well drilling begin within the time specified in the permit? ☐ Yes ☐ No



TIP: Not all permits specify a date by which construction was to begin.

Date construction began is: N/A

Details of construction: N/A

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2. Permits typically contain standard or special conditions that must be satisfied to lawfully develop and use permitted water. In the development of this water right, have you satisfied the conditions contained in your permit? ☐ Yes ☒ No

- 2-A) Describe how you have complied with each condition contained in the original permit [and, if applicable, each condition contained in any order approving a permit amendment and/or a final order approving a prior extension of time]. Include the date when the condition was satisfied.



TIP: The instruction sheet for the Application for Extension of Time provides an explanation of the typical conditions that must be addressed in this question.

CHART-A

Condition No.**	Date Satisfied	Describe How Permit Condition Has Been Satisfied
#1	N/A	WATER USE HAS NOT BEGUN.
#2	N/A	WELL HAS NOT BEEN DRILLED / DEVELOPED.
#3	5-21-07	OWRD RECEIVED DOCUMENTARY EVIDENCE OF 4.2 GENERAL ZONE PERMANENT MITIGATION CREDITS FROM MP-27.
#4	N/A	

** Condition No: Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension). Include a copy of your hand-numbered permit with the application.

- 2-B) If you have NOT complied with all applicable conditions, explain the reasons why and indicate with a date certain (in the near future) when compliance will occur.

CHART-B

Condition No.**	Date Will Comply	Explain Why Each Permit Condition Has NOT Been Satisfied
#1	2016	OPPONENTS TO ROCK QUARRY HAVE APPEALED LAND USE PERMITS TO LUBA THREE TIMES TO DATE DELAYING PROJECT.
#2	2017	" "
#3	N/A	SATISFIED, SEE CHART A
#4	2022	" "

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** Condition No: Hand-number each condition on a copy of your permit (and, if applicable, permit amendment and prior extension). Include a copy of your hand-numbered permit with the application.

3. Provide evidence of physical progress made toward completion of the water system, and of progress made toward making beneficial use of water within the permitted time period (CHART-C); and if applicable, within the time period of the most recent extension granted (CHART-D).

3-A) CHART-C (below) must be completed for all Application for Extension of Time requests. Use chronological order.

CHART-C

DATE	WORK ACCOMPLISHED BEFORE PERMIT WAS ISSUED <i>List any work done before the permit was issued – eg. well drilled.</i>	COST*
2003-2004	Test wells / test pits / engineering – see DESC 56538 thru DESC 56571	\$73,500
2004-2007	Legal & Professional for land use permitting / LUBA appeals	\$23,250

DATE	WORK ACCOMPLISHED AFTER PERMIT WAS ISSUED <i>and PRIOR TO DATE SPECIFIED IN PERMIT FOR COMPLETE APPLICATION OF WATER</i> <i>List work/actions done during the permitted time period.</i>	COST*
11-1-07	Date the permit was signed - find date above signature on last page of permit.	
2008-2012	Legal & Professional for land use permitting / LUBA appeals	\$23,250
N/A	Date the permit specified "Actual Construction Work" shall begin ("A-Date") -not all permits contain this date.	
10/1/12	Date the permit specified complete application of water to the use shall be made ("C-Date") - all permits contain this date.	

DATE	WORK ACCOMPLISHED AFTER "C-DATE" <i>COMPETE ONLY IF THIS IS YOUR 1st APPLICATION FOR EXTENSION OF TIME: List work done after the date specified in the permit for complete application of water up to the date of this Application for Extension of Time.</i>	COST*
N/A	STILL ACTIVELY SEEKING PERMITS.	
Total Cost for Chart-C		\$121,000

* If exact cost is not known, you must provide your best estimate.

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- 3-B) If this is not your 1st Application for Extension of Time request, fill out CHART-D below (in addition to CHART-C above). Use *chronological order*.

CHART-D

DATE	WORK ACCOMPLISHED DURING THE LAST EXTENSION PERIOD <i>List all work done during the last authorized extension period.</i>	COST*
10/1/	"Extended From" date for complete application of water used in the 1 st (or the most recent) Application for Extension of Time.	
	NA	NA
10/1/	"Extended To" date for complete application of water resulting from the 1 st (or the most recent) Application for Extension of Time.	

[OAR 690-315-0020(3)(f)]

4. Cost of project to date: \$121,000
(The total combined cost from CHART-C and CHART-D)

[OAR 690-315-0020(3)(e)(B)]

5. Provide evidence of the maximum rate (or duty, if applicable) of water diverted for beneficial use under this permit and/or prior extensions of time (if any) made to date.

5-A) For Surface Water Permit Extensions (e.g. S-XXXX or R-XXXX):

NA

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5-B) For Ground Water Permit Extensions (e.g. G-XXXX):

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CHART-E

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Well # as identified on Permit	Water User's Well #	Has this well been drilled?	IF DRILLED					
			Well Log Number e.g. MORR 50473	Well Tag Number e.g. # 27566 or N/A	Is the actual drilled location authorized on this permit or on a permit amendment? (See 5-C below)	Maximum instantaneous rate used from this well -- under <u>this</u> permit only (CFS or GPM)	Is this well authorized or utilized under any OTHER water rights?	If yes, provide the Permit, Certificate, or Transfer No.
WELL 1		Yes ☐ No ☒			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
		Yes ☐ No ☐			Yes ☐ No ☐		Yes ☐ No ☐	-
Total instantaneous rate from all wells utilized under this permit						0.0		

- 5-C) If the drilled location of a well is not authorized on this permit, please specify its location below, or provide a map showing its location. Has or will a permit amendment application been/be filed? Yes ☐ No ☒

If a Permit Amendment Application has been filed: Transfer No. T-_____

Well # _____: Actual location: _____

Well # _____: Actual location: _____

[OAR 690-315-0020(3)(e)(C)]

6. Provide the total number of acres irrigated to date under this permit (if applicable).

Total acres irrigated to date: NA

Ground Water Permits: Please specify which wells are being utilized for this irrigation.

Well # 1 Acres NA Well # _____ Acres _____

Well # _____ Acres _____ Well # _____ Acres _____

[OAR 690-315-0020(3)(j)]

7. Provide a summary of your future plans and schedule to complete the construction of the water system, and/or apply water to full beneficial use under the terms and conditions of the permit.

CHART-F

APPROXIMATE DATE RANGE (projected)	WORK OR ACTION TO BE ACCOMPLISHED (projected)	ESTIMATED COST (projected)
2012-2016	CONTINUED LAND USE APPEALS / PERMITTING	\$50,000
2017-2018	ENGINEERING & PERMIT CONDITIONS	\$30,000
2018-2020	CONSTRUCTION	\$120,000
Year: 2022	Date intend to apply water to full beneficial use under the terms and conditions of this permit.	
Total Cost		\$200,000

[OAR 690-315-0020(3)(g)]

8. Estimated remaining cost to complete the project: \$200,000
(The total cost from CHART-F)

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9. List the reasons why the project was not constructed, and/or water was not beneficially used within permit time limits. *Provide supporting information for the reason(s) that best fits your circumstances (A, B, C or D).*

9-A) The project is of a size and scope that was originally planned to be phased in over a time frame longer than the one allowed in the permit.

9-B) The financial resources needed to develop the project precluded completion of the project within authorized time frames.

9-C) Good faith attempts to comply with permit conditions and/or acquire permits from other agencies, or otherwise comply with government regulations, delayed completion of the project.

AS EVIDENCED IN ATTACHED DOCUMENTS, OPPONENTS TO GRAVEL MINE HAVE APPEALED COUNTY APPROVALS TO LUBA THREE TIMES TO DATE.

9-D) Acts of God or other unforeseen events delayed full development of the water system and use of water within the authorized time frames.

10. Justify the time requested to complete the project and/or apply the water to full beneficial use. Your justification should combine information from your answers from Questions 2-B, 7, 8, and 9 of this Application for Extension of Time, and should also include any other information or evidence to establish that the requested amount of time is sufficient and that you will be able to complete the project within the amount of time requested.

PERMITS APPLIED FOR EIGHT YEARS AGO (2004) ARE A LENGTHY UNKNOWN DUE TO OPPONENT APPEALS OF COUNTY APPROVALS TO LUBA.

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SEP 17 2012

SALEM, OR

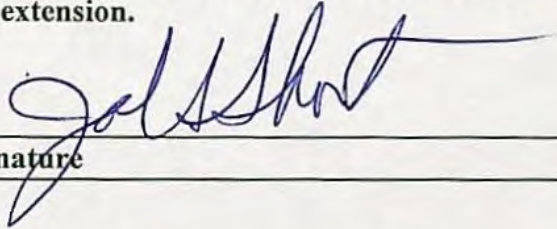
11. Provide any other information you wish OWRD to consider while evaluating your Extension of Time Application.

FOR ADDITIONAL INFORMATION, PLEASE CONTACT AUTHORIZED AGENT:

JOHN SHORT
WATER RIGHT SERVICES, LLC
P.O. BOX 1830
BEND, OR 97709

541-389-2837 OR JOHNSHORT@USA.COM

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


Signature

9-14-12
Date

RECEIVED BY OWRD

SEP 17 2012

SALEM, OR

STATE OF OREGON

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

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

APPLICATION FILE NUMBER: G-16403

SOURCE OF WATER: WELL 1 IN DRY RIVER BASIN

PURPOSE OR USE: INDUSTRIAL USE (GRAVEL MINING)

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND, FURTHER LIMITED TO 6.0 ACRE
FEET PER YEAR

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 7, 2005

WELL LOCATION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 30, T19S, R15E, W.M.; 600 FEET
NORTH & 1400 FEET EAST FROM SW CORNER, SECTION 30

THE PLACE OF USE IS LOCATED AS FOLLOWS:

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SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 30

SEP 17 2012

TOWNSHIP 19 SOUTH, RANGE 15 EAST, W.M.

SALEM, OR

Measurement, recording and reporting conditions:

- (#1)
- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

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SALEM, OR

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation as required herein is maintained.

#2 To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and submit annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the

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SALEM, OR

Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

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

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

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

GROUND WATER MITIGATION CONDITIONS

#3 Mitigation Obligation:

4.2 acre-feet annually in the General Zone of Impact, located in the Deschutes River Basin above the Madras gage, which is located below Lake Billy Chinook.

Mitigation Source:

4.2 Mitigation Credits originating from Mitigation Project MP-#27, which is a permanent instream transfer that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s), will occur if the required mitigation is not maintained.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

STANDARD CONDITIONS

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

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

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This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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

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

#4

Complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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

Issued November 1, 2007

E. Timothy Ward

for Phillip C. Ward, Director
Water Resources Department

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SALEM, OR

Application G-16403 Water Resources Department
Basin 5

PERMIT G-16243
District 11

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

725 Summer St. N.E. Ste. A
SALEM, OR 97301-4172

(503) 986-0900 / (503) 986-0904 (fax)

RECEIPT # **106855**

INVOICE # _____

RECEIVED FROM: 4REQUIPMENT, LLC

BY: _____

CASH: ☐ CHECK: # 46105 ☒ OTHER: (IDENTIFY) ☐ _____

APPLICATION	<u>616403</u>
PERMIT	
TRANSFER	

TOTAL REC'D \$ 500.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES \$ _____
 _____ OTHER: (IDENTIFY) _____ \$ _____

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES \$ _____
 0410 RESEARCH FEES \$ _____
 0408 MISC REVENUE: (IDENTIFY) _____ \$ _____
 TC162 DEPOSIT LIAB. (IDENTIFY) _____ \$ _____
 0240 EXTENSION OF TIME \$ 500.00

WATER RIGHTS:

	EXAM FEE		RECORD FEE
0201 SURFACE WATER	\$ _____	0202	\$ _____
0203 GROUND WATER	\$ _____	0204	\$ _____
0205 TRANSFER	\$ _____		

WELL CONSTRUCTION

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

_____ OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE	\$ _____	CARD #	_____
0210 MONITORING WELLS	\$ _____	CARD #	_____

_____ OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FWWRD)	_____	\$ _____
0231 HYDRO LICENSE FEE (FWWRD)	_____	\$ _____
_____ HYDRO APPLICATION		\$ _____

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **106855**

DATED: 9-17-12 BY: 2R

Application # G-16403

Permit # G-16243

Public Notice Route Slip ... New Application Extension of Time
per Division 315 Rules... (Extensions received on July 1, 2001 or after)

♦ WRIG...

Money Receipted on: 9.17.2012

♦ Extension Specialist ...



Added to tracking spreadsheet

After fee is receipted and app is added to spreadsheet, route to...

♦ Codi Holmes...



Publish on Public Notice (initial 30-day comment): Date of notice _____



Update WRIS Database



In the "PNotice Date" field... Enter the date the Extension Application was published on the Public Notice.



In the "Ext Filed" field... Enter the date the Extension Application was received.

☐ Yes or ☐ No: Return file to Extension Specialist after PN _____



Oregon

John A. Kitzhaber, MD, Governor

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

September 25, 2012

REFERENCE: Application for Extension of Time

Dear Extension of Time Applicant:

The Water Right Services Division has received your application for an extension of time for **APPLICATION FILE #: G-16403 (Permit G-16243)**. Your application will be reviewed in the future. Following the review, you will receive a Proposed Final Order either approving or rejecting the extension of time request. A 45-day protest period begins upon issuance of the Proposed Final Order. After the protest period closes, a Final Order is issued.

If you are interested in having your application reviewed sooner, you may pay to have your file processed immediately, using the Reimbursement Authority program, which is described at: http://www.wrd.state.or.us/OWRD/mgmt_reimbursement_authority.shtml

You may continue the use of water under your water right until the Water Resources Department formally takes action on your extension application. If your permit includes conditions, water use reporting, water level measurement reporting, etc., you are required to comply with the conditions.

Any additional development that occurs after the expired completion date, identified on the permit or an extension order, can only be claimed upon an approved extension application.

If you have questions concerning your extension of time application, please contact Jerry Gainey (503) 986-0812. For general information about the Water Resources Department, you may contact the Water Resources' Customer Service Group at (503) 986-0801 or you may access the Department's website at: www.wrd.state.or.us.

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 KEITH NASH and JANET NASH,
5 *Petitioners,*

6
7 vs.

8
9 DESCHUTES COUNTY,
10 *Respondent,*

11 and

12
13 4-R EQUIPMENT, LLC,
14 *Intervenor-Respondent.*

15
16 LUBA No. 2010-082

17
18 FINAL OPINION
19 AND ORDER
20

See page 2
following.

21
22 Appeal from Deschutes County.

23
24 David A. Moser, Portland, filed the petition for review and argued on behalf of
25 petitioner.

26
27 No appearance by Deschutes County.

28
29 Robert S. Lovlien, Bend, filed the response brief and argued on behalf of intervenor-
30 respondent. With him on the brief was Bryant, Lovlien and Jarvis PC.

31
32 RYAN, Board Member; HOLSTUN, Board Chair; BASSHAM, Board Member,
33 participated in the decision.

34
35 REMANDED

02/15/2011

36
37 You are entitled to judicial review of this Order. Judicial review is governed by the
38 provisions of ORS 197.850.

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SEP 17 2012

SALEM, OR

NATURE OF THE DECISION

Petitioners appeal a county decision that approves a plan amendment and zone change to allow a gravel mine.

MOTION TO INTERVENE

4-R Equipment, LLC (intervenor), the applicant below, moves to intervene on the side of respondent. There is no opposition to the motion, and it is allowed.

FACTS

This case is before us for the third time.¹ In 2006, intervenor applied to have its 385-acre property placed on the county's inventory of mineral and aggregate sites, and to rezone the property to Surface Mining (SM), to facilitate proposed mining and crushing of basalt rock. Mining operations will occur on the subject property from November through February. As relevant here, the subject 385-acre property is adjacent to a cattle ranch, the Evans Well Ranch, an approximately 22,000-acre ranching operation that is comprised in part of six pastures that are leased to petitioners by the Bureau of Land Management (BLM).² The BLM manages and controls the use of the pastures and assigns periods of grazing for each of the six pastures. One of those pastures, the Flat Pasture, is approximately 5,000 acres in size and shares a common boundary of approximately 1,320 feet with the subject property. The subject property is separated from Flat Pasture by a fence and by Spencer Well Road, a paved road. A well that does not freeze in the winter is located within the Flat Pasture, more than two miles from the pasture's common boundary with the subject property.

¹ In *Walker v. Deschutes County*, 55 Or LUBA 93 (2007) (*Walker I*) and again in *Walker v. Deschutes County*, 59 Or LUBA 488 (2009) (*Walker II*), we remanded the county's decision.

² The Evans Well Ranch is sometimes referred to in the record as the BLM's Horse Ridge Allotment. Record 117.

1 After our remand in *Walker v. Deschutes County*, 59 Or LUBA 488 (2009) (*Walker*
2 *II*) to address evidence regarding impacts of the mine on the Evans Well Ranch agricultural
3 operations, intervenor submitted into the record a report (Borine Report) that concluded that
4 the proposed mine would not have an adverse effect on any of the Evans Well Ranch
5 agricultural operations that occur in the Flat Pasture. Record 114-121. Based on the Borine
6 Report, the county again approved the applications. This appeal followed.

7 **FIRST AND SECOND ASSIGNMENTS OF ERROR**

8 **A. Applicable Law**

9 OAR 660-023-0180(5) sets out the procedures and standards for determining whether
10 to allow mining of a significant mineral resource. OAR 660-023-0180(5)(a) includes a
11 requirement to determine an “impact area” in order to identify conflicts with the proposed
12 mine.³ Generally, the rule limits the size of the “impact area” to 1,500 feet from the mining
13 area, unless “*factual information indicates significant potential conflicts beyond this*
14 *distance.*” (Emphasis added.) In the present case, the county apparently chose an impact
15 area of one-half mile from the property boundary of the tract that includes the mining site,
16 instead of the 1,500 foot minimum specified by 660-023-0180(5)(a), because the half-mile
17 distance corresponds to the Surface Mining Impact Area overlay zone that is automatically
18 imposed under Deschutes County Code (DCC) 18.56.020, which requires that “[t]he SMIA
19 zone shall apply to all property located within one-half mile of the boundary of a surface
20 mining zone.”

³ OAR 660-023-0180(5) states in relevant part:

“For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. * * *

“(a) The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. * * *”

1 The rule also requires the county to determine existing land uses within the impact
2 area that will be adversely affected by the proposed mine, and specifically to consider
3 “[c]onflicts with agricultural practices” within the impact area.⁴ The designation of the
4 impact area and the assessment of conflicts with agricultural practices within the impact area
5 are sometimes interrelated, because in order to determine the size of the impact area, and
6 hence which existing land uses are subject to the adversely affected analysis under OAR 660-
7 023-0180(5)(b) and (c), some evaluation of potential impacts on agricultural practices in the
8 larger vicinity of the proposed mine may be required.

9 **B Walker I and Walker II**

10 In *Walker v. Deschutes County*, 55 Or LUBA 93 (2007) (*Walker I*), we remanded the
11 county’s decision approving the applications for the county (1) to consider whether to

⁴ OAR 660-023-0180(5)(b) and (c) provide, in relevant part:

“(b) The local government shall determine existing * * * land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. * * * For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

“(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

“* * * * *

“(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

“(E) Conflicts with agricultural practices[.]”

“(c) “The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. *To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section.* If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.” (Emphasis added.)

1 expand the impact area beyond the one-half mile that the county concluded was appropriate,
2 to include other grazing lands that are part of the Evans Well Ranch, and (2) to determine
3 possible mining conflicts with agricultural operations on the Evans Well Ranch. We
4 sustained the petitioners' assignments of error in part because there was evidence and
5 testimony in the record that indicated that the Evans Well Ranch grazing operations beyond
6 the one-half mile impact area may also be impacted by the mining, and that blasting and
7 other activities from the proposed mine could adversely affect their grazing operation.

8 In *Walker II*, we sustained the petitioners' assignments of error that again challenged
9 the county's decision not to expand the impact area beyond one-half mile and its conclusion
10 that the mining would not conflict with agricultural practices within that one-half mile
11 impact area. We agreed with petitioners that the county erred in limiting its analysis to a 40-
12 acre parcel that is part of the Evans Well Ranch immediately adjacent to the subject property,
13 and failing to consider petitioners' evidence and testimony that the proposed mine would
14 produce conflicts with grazing on areas of the Flat Pasture located both within and beyond
15 one-half mile from the proposed mine.⁵

⁵ We held in *Walker II*:

"Petitioners are correct that the county's findings with respect to the size of the impact area and conflicts with agricultural uses within the one-half mile impact area appear to be based on the understanding that the only Evans Wells Ranch grazing allotment located in the vicinity of the mining site is the adjacent 40-acre parcel. The county apparently failed to appreciate that other Evans Well Ranch grazing allotments are located nearby, some within the one-half mile SMIA overlay zone and some outside the zone. For purposes of determining the size of the impact area under OAR 660-023-0180(5)(a), and whether 'factual information indicates significant potential conflicts beyond' the initial 1,500-foot impact area provided under the administrative rule, the county must sometimes evaluate evidence regarding land that is located outside that initial 1,500-foot impact area, and potentially some distance from the mining site. The county's failure to appreciate that there are Evans Well Ranch grazing allotments in the vicinity other than the adjacent 40-acre allotment, such as the Flat Pasture area with its water source, means that the county's determination regarding the size of the impact area is flawed. Remand is necessary for the county to consider all relevant evidence regarding all Evans Well Ranch grazing allotments that are in the vicinity and potentially affected by the proposed mining operation, and to determine the size of the impact area based on whether 'factual information indicates significant potential conflicts' with grazing on those allotments.

1 C. The County's Latest Decision to Approve the Mine

2 The county found:

3 "The Board concludes that there will be no significant potential conflict with
4 the Evans Well Ranch or its grazing allotments on the BLM property adjacent
5 to the proposed mining site, including the Flat Pasture grazing allotment west
6 of the proposed mining site. The Board finds that the written report and oral
7 testimony submitted by Roger Borine, the applicant's consultant, sufficiently
8 demonstrates that the proposed mining operation, including blasting, will not
9 impact to any great extent the cattle grazing on the Flat Pasture allotment, or
10 that other impacts of the proposed mining would cause cattle on that allotment
11 to abandon the Flat Pasture and instead graze more heavily on privately
12 owned pastures on the ranch itself, outside the impact area.

13 "The Borine agricultural report has the following conclusions on page 6 of the
14 report:

15 "The Flat Pasture is determined to be the 'impact area'. It is the only
16 pasture in the Horse Ridge Allotment that shares a common boundary
17 with the [subject property] and is approximately 5,010 acres or 7.3
18 square miles in size. The five remaining pastures are over two air
19 miles from [the subject property.]

20 "The optimal period for grazing annual and perennial grasses by
21 livestock near the [mine] is in late March, April, May and early June.
22 Mining operations will occur during the months of November-
23 February. No ranching management practices in the northeast portion
24 of the impact area were identified to attract and evenly distribute cattle
25 and promote proper plant utilization. The occurrence of cattle near the
26 [mine] while in operation would be highly unlikely and only

"Even if it is presumed that the one-half mile impact area chosen by the county is justified for purposes of OAR 660-023-0180(5)(a), remand is necessary in any case, because the county's findings regarding conflicts with agricultural uses under OAR 660-023-0180(5)(b)(E) also appear to be based on the misapprehension that the only grazing within the impact area occurs on the adjacent 40-acre parcel. The Nashes testified, and intervenor does not dispute, that other Evans Well Ranch grazing allotments are located within the one-half mile SMIA overlay zone. Finally, the county's findings under OAR 660-023-0180(5)(b)(E) do not address the Nashes' testimony regarding noise impacts on their cattle operation, or indeed noise impacts on cattle at all. The findings cite fencing and a 200-foot buffer area as the principal bases for concluding that the mine operation will not conflict with agricultural practices, that is, will not force a significant change in accepted farming practices or significantly increase the cost of accepted farming practices. However, the Nashes submitted specific testimony regarding noise impacts on their grazing operation, and the county's findings neither address that testimony nor demonstrate that fencing and a 200-foot buffer area are sufficient to ensure that the mining operation will not conflict with agricultural practices, for purposes of OAR 660-023-0180(5)(e)." *Walker II* at 495-96.

1 incidental. Blasting and crushing operations are well within existing
2 decibel levels now occurring within the impact area.

3 “‘All relevant evidence’ * * * to the impact area that may impact a
4 ranching operation, and specifically the mining operation, was
5 identified and assessed for its potential impact. This analysis
6 determined and supports the conclusion that the [mine] will not impact
7 the Evans Well Ranch operations. In addition, the [mine] will not
8 create noise or disturbance over and above already existing conditions
9 on the cattle and the cattle operation.

10 “The Board finds that the Borine Report is sufficient evidence that no
11 significant impacts of the mine will reach the remaining pastures and that
12 there will not be an impact from the mine on either the ranch itself, or on any
13 of the related grazing allotments on the BLM land in the vicinity of the mine.
14 *Despite [petitioners’] stating in their letter that the actual graze runs longer,*
15 *the Board finds the statement by Mr. Borine that the allotment currently is not*
16 *for that longer time period to be credible. Given that the mining operations*
17 *will occur during the months of November – February, the Board finds that*
18 *the timing of allotted grazing on BLM land versus the mining operations,*
19 *significantly minimizes, if not eliminated, the impacts between the grazing and*
20 *the mining operations.* Therefore, the original one-half mile impact area
21 chosen by the Board is still the appropriate impact area.

22 “As a result, the Board finds the testimony and report by Mr. Borine to be
23 more persuasive than [petitioners’] comments as to the potential impact to
24 cattle grazing in the area, and specifically the Flat Pasture Allotment. Based
25 upon the size of the Evans Well Ranch BLM grazing allotment, the location
26 of the grazing allotment, and the evidence from a similar mining site, the
27 Board concludes that the proposed mining would not result in a ‘significant
28 potential conflict’ with respect to the Evans Well Ranch grazing allotment and
29 the operation of the ranch.” Record 19-20 (Emphasis added; footnote
30 omitted).

31 D. Assignments of Error

32 In their first assignment of error, petitioners challenge the county’s decision not to
33 expand the impact area under OAR 660-023-0180(5)(a) beyond one-half mile.⁶ According
34 to petitioners, there is no substantial evidence in the record to support the county’s decision

⁶ Although petitioners argue that the county’s decision misconstrues applicable law, is not supported by substantial evidence in the record, and that its findings are inadequate, the crux of their argument is a substantial evidence challenge to the county’s reliance on the Borine Report in light of conflicting evidence presented by petitioners. We address those substantial evidence arguments.

1 and the "factual information" in the record demonstrates that there are "significant potential
2 conflicts" with petitioners' agricultural operations in the Flat Pasture beyond one-half mile
3 from the proposed mining area.⁷

4 Petitioners first argue that the county's decision to limit the size of the "impact area"
5 under OAR 660-023-0180(5)(a) is not supported by the Borine Report, because according to
6 petitioners, that report concluded that the "impact area" is the entire Flat Pasture and if the
7 county based its decision on the Borine Report, it should have designated the entire Flat
8 Pasture area as the "impact area" consistent with the Borine Report's conclusion. While the
9 Borine Report does use the phrase "impact area," we understand the report's use of that
10 phrase to refer to the area of analysis for purposes of determining whether there is "factual
11 information" indicating significant potential conflicts beyond the default 1,500 foot impact
12 area under OAR 660-023-0180(5), or beyond the one-half mile impact area chosen by the
13 county.

14 Petitioners next argue that a key assumption in the Borine Report and the county's
15 findings in reliance on the Borine Report is that there are no impacts from the mine because
16 cattle will graze on the Flat Pasture only during spring months, and not during the winter
17 months when the mine is in operation. According to petitioners, evidence in the record
18 regarding the BLM-allowed time period for grazing on the Flat Pasture confirms that grazing
19 occurs from November 1 to December 15, which is during the period when mining and
20 blasting are proposed.

⁷ Substantial evidence is evidence a reasonable person would rely on in reaching a decision. *City of Portland v. Bureau of Labor and Ind.*, 298 Or 104, 119, 690 P2d 475 (1984); *Bay v. State Board of Education*, 233 Or 601, 605, 378 P2d 558 (1963); *Carsey v. Deschutes County*, 21 Or LUBA 118, *aff'd* 108 Or App 339, 815 P2d 233 (1991). In reviewing the evidence, however, we may not substitute our judgment for that of the local decision maker. Rather, we must consider all the evidence in the record to which we are directed, and determine whether, based on that evidence, the local decision maker's conclusion is supported by substantial evidence. *Younger v. City of Portland*, 305 Or 346, 358-60, 752 P2d 262 (1988); *1000 Friends of Oregon v. Marion County*, 116 Or App 584, 588, 842 P2d 441 (1992).

1 As noted above, mining will occur on the subject property from November through
2 February of each year. Based on the above-quoted findings, we understand the county to
3 have understood the Borine Report to presume or conclude that petitioners graze their cattle
4 in the Flat Pasture from late-March through early June, and that because mining will occur
5 between November and February, there will be no cattle grazing in the Flat Pasture area
6 during the months when mining is occurring and thus there will be no conflicts with
7 petitioners' ranching operation. However, the Borine Report does not explain the basis for
8 the apparent presumption that no grazing will occur when mining is occurring, and the pages
9 of the record cited to us are to the contrary.

10 During the proceedings on remand from *Walker I*, petitioners introduced evidence
11 into the record that in 2008 the BLM-approved grazing schedule allowed petitioners to graze
12 their cattle in the Flat Pasture only from November 1 to December 15. Petition for Review
13 Appendix ER-8-10 (correspondence between BLM and petitioners stating that petitioners are
14 allowed to graze in the Flat Pasture from November 1 to December 15, 2008). During the
15 proceedings on remand from *Walker II*, petitioners testified orally and in writing that that
16 grazing schedule remained in effect, and that petitioners are allowed to graze their cattle on
17 the Flat Pasture from November 1 to December 15, 2010. Record 41 (letter from petitioners
18 so stating). That evidence is uncontroverted and is not addressed in either the Borine Report
19 or in the county's decision.⁸

20 The county's incorrect presumption that mining and grazing would not occur
21 simultaneously led the county to decide not to expand the impact area beyond one-half mile.
22 It also led the county to conclude that there would be no conflict with petitioners' ranching
23 operations within and beyond the one-half mile impact area. In their second assignment of

⁸ Although intervenor cites an email message from the author of the Borine Report which, according to intervenor, rebuts petitioners' evidence and testimony, we do not find anything in that email message that contradicts petitioners' testimony and evidence. Record 39.

1 error, petitioners argue that there is not substantial evidence in the record to support the
2 county's conclusion under OAR 660-023-0180(5)(b)(E) that the proposed mine will not
3 conflict with the Evans Well Ranch grazing operations within the Flat Pasture. Petitioners
4 point to evidence in the record that noise from the mine would conflict with cattle grazing on
5 the Flat Pasture and would force those cattle to overuse pasture areas farther away from the
6 mine, resulting in increased costs of operation. Petition for Review Appendix ER-7.
7 Because the county's conclusion that the mine will not conflict with petitioners' agricultural
8 operations is also based on their incorrect conclusion that grazing will not occur during the
9 time when the mine is operating, for the same reasons set forth above, we conclude that no
10 reasonable decision maker would rely on the Borine Report to reach that conclusion.

11 Finally, in portions of their first and second assignments of error, petitioners also
12 argue that the county erred in failing to consider whether to expand the impact area to
13 include other pastures or BLM allotments other than the Flat Pasture that are adjacent to the
14 subject property. Intervenor responds that petitioners are precluded from arguing that other
15 pastures or BLM allotments other than the Flat Pasture should have been considered, because
16 that argument could have been made but was not made, in either *Walker I* or *Walker II*. We
17 agree. *Beck v. City of Tillamook*, 313 Or 148, 831 P2d 678 (1992).

18 Further, petitioners argue that the county erred in failing to consider the mine's
19 potential impact on sage grouse in the area, which petitioners allege might lead BLM to
20 reduce petitioners' grazing rights to protect sage grouse and if so would conflict with
21 petitioners' agricultural operations. With respect to impacts on sage grouse, intervenor
22 argues that *Walker I* and *Walker II* addressed issues regarding sage grouse and argues that
23 petitioners may not raise those issues again in this appeal. However, *Walker I* and *Walker II*
24 addressed an argument under OAR 660-023-0180(5)(b)(D) that the impact area should be
25 expanded to include a sage grouse lek, or breeding site that is an identified Goal 5 resource
26 site in the county's comprehensive plan. See n 4. *Walker I* at 101-102; *Walker II* at 496-98.

1 As we understand petitioners' argument, it is an argument under OAR 660-023-
2 0180(5)(b)(E) that noise and blasting from the mine will conflict with their agricultural
3 operations because that noise and blasting could cause sage grouse to abandon the area and
4 seek winter habitat on portions of petitioners' ranch, which might lead BLM to reduce
5 grazing rights in order to protect limited forage for sage grouse. We recognized that
6 argument in *Walker II* and in part sustained petitioners' assignment of error that set out that
7 argument.⁹ Petitioners' supposition that the proposed mining will cause sage grouse to leave
8 the mining area and flee to petitioners' grazing lands for winter habitat, as opposed to ending
9 up on some other land, and their related supposition that the BLM will then reduce
10 petitioners' grazing operation on Flat Pasture, relies on several levels of speculative
11 causation. However, as far as we can tell, the county did not address that argument on
12 remand. On remand, the county should consider, in determining whether the proposed mine
13 conflicts with petitioners' agricultural operations, effects of the proposed mine on sage
14 grouse that winter in the impact area and the possibility that such effects could lead to a
15 reduction in lands available for grazing for petitioners' cattle.

16 To summarize, remand is again necessary for (1) the county to expand the impact
17 area to include the Flat Pasture or to identify substantial evidence in the record that supports
18 its decision to limit the impact area to one-half mile from the proposed mine; and (2) to
19 evaluate any conflicts with petitioners' agricultural operations in the impact area that the

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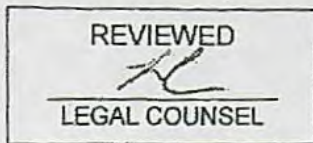
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⁹ In *Walker II*, we summarized the argument as follows:

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"According to petitioners, on remand the Nashes submitted additional testimony detailing specific impacts of the proposed mine on their grazing operation, including impacts on a nearby grazing allotment known as 'Flat Pasture' that has access to an important water source that does not freeze in the winter. * * * The Nashes explained that BLM recently reduced their use of Flat Pasture to provide additional winter habitat for sage grouse, and argues that the impact of mine blasting on nearby sage grouse populations may cause BLM to further reduce or eliminate grazing of Flat Pasture." *Walker II* at 494.

- 1 county designates, including whether the proposed mine would cause sage grouse to abandon
- 2 the area and seek winter habitat on petitioners' other allotments.
- 3 The first and second assignments of error are sustained, in part.
- 4 The county's decision is remanded.



For Recording Stamp Only

DECISION OF THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

FILE NUMBERS: PA-04-8, ZC-04-6

APPLICANT/OWNER: 4-R Equipment, LLC
PO Box 5006
Bend, OR 97708

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AGENT: Robert S. Lovlien
Bryant Lovlien & Jarvis, P.C.
P.O. Box 880
Bend, OR 97709

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SALEM, OR

REQUEST: A plan amendment and zone change for 365 acres from
Exclusive Farm Use (EFU-HR) to Surface Mining (SM).

STAFF CONTACT: Paul Blikstad, Senior Planner

I. APPLICABLE CRITERIA:

- A. Title 18 of the Deschutes County Code (DCC), the Deschutes County Zoning Ordinance
- B. Title 22 of the DCC, the Development Procedures Ordinance
- C. Title 23 of the DCC, the Deschutes County Comprehensive Plan
- D. OAR 660 Division 23, Procedures and Requirements for Complying with Goal 5
- E. OAR 660-012-0060, Plan and Land Use Regulation Amendments
- F. OAR 660-015, Statewide Planning Goals

II. FINDINGS OF FACT:

PROCEDURAL HISTORY: The procedural history for these applications was stated in the Board of County Commissioners' (hereinafter Board) two prior decisions. The Land Use Board of Appeals (LUBA) remanded the Board's most recent decision (dated October 1, 2008) on September 22, 2009 (Walker vs. Deschutes County and 4R Equipment, LLC, LUBA No. 2008-189).

DC 2010.570

The applicant submitted a letter to the County Planning Division requesting that the County start the remand proceedings; that letter was received by the County on June 17, 2010. The 90-day period for a final decision required under ORS 215.435(1) is September 15, 2010.

The County set a public hearing for Monday, July 19, 2010 pursuant to the LUBA remand order. The Planning Division mailed notice of the public hearing to all parties to the prior proceedings. The hearing was held before the Board. The Board left the written record open for all parties to July 23, 2010, and gave the applicant until July 28, 2010 for rebuttal.

Prior to the hearing letters were received from William Arras and Jeffrey Gray. At the hearing letters were received from Frankie Watson and Tammie and Clay Walker (the Walker letter was submitted into the record by Susan Gray). After the hearing, letters were received from Minerva Soucie, and Keith and Janet Nash.

The Board of County Commissioners then announced its decision approving the plan amendment and zone change on August 4, 2010. The Board hereby makes the following findings of fact with respect to the assignments of error that were sustained by LUBA in Walker vs. Deschutes County, et al.:

1. Evans Well Ranch.

In the 2008-189 case, LUBA concluded as follows:

"* * * The County's failure to appreciate that there are Evans Well Ranch grazing allotments in the vicinity other than the adjacent 40-acre allotment, such as the Flat Pasture area with its water source, means that the county's determination regarding the size of the impact area is flawed. Remand is necessary for the county to consider all relevant evidence regarding all Evans Well Ranch grazing allotments that are in the vicinity and potentially affected by the proposed mining operation, and to determine the size of the impact area based on whether "factual information indicates significant potential conflicts" with grazing on those allotments."

Additionally, at the hearing, Petitioners speculated that if mining operations impacted sensitive grouse populations, the Bureau of Land Management (BLM) could restrict grazing on the ranchers' allotments in the area.

The Board concludes that there will be no significant potential conflict with the Evans Well Ranch or its grazing allotments on the BLM property adjacent to the proposed mining site, including the Flat Pasture grazing allotment west of the proposed mining site. The Board finds that the written report and oral testimony submitted by Roger Borine, the applicant's consultant, sufficiently demonstrates that the proposed mining operation, including blasting, will not impact to any great extent the cattle grazing on the Flat Pasture allotment,¹ or that other impacts of the proposed mining would cause cattle on that allotment to abandon the Flat Pasture and instead graze more heavily on privately owned pastures on the ranch itself, outside the impact area.

The Borine agricultural report has the following conclusions on page 6 of the report:

¹ The report by Roger Borine indicates the Flat Pasture allotment is approximately 5,010 acres in size (or 7.3 square miles).

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"The Flat Pasture is determined to be the "impact area." It is the only pasture in the Horse Ridge Allotment that shares a common boundary with the SWM (Spencer Wells Mine) and is approximately 5,010 acres or 7.3 square miles in size. The five remaining pastures are over two air miles from the Spencer Well Mine.

The optimal period for grazing annual and perennial grasses by livestock near the Spencer Well Mine is in late March, April, May and early June. Mining operations will occur during the months of November-February. No ranching management practices in the northeast portion of the impact area were identified to attract and evenly distribute cattle and promote proper plant utilization. The occurrence of cattle near the Spencer Well Mine while in operation would be highly unlikely and only incidental. Blasting and crushing operations are well within existing decibel levels now occurring within the impact area.

"All relevant evidence...." to the impact area that may impact a ranching operation, and specifically the mining operation, was identified and assessed for its potential impact. This analysis determined and supports the conclusion that the Spencer Well Mine will not impact the Evans Well Ranch operations. In addition, the Spencer Well Mine will not create noise or disturbance over and above already existing conditions on the cattle and the cattle operation."

The Board finds that the Borine report is sufficient evidence that no significant impacts of the mine will reach the remaining pastures and that there will not be an impact from the mine on either the ranch itself, or on any of the related grazing allotments on the BLM land in the vicinity of the mine. Despite the Nashes stating in their letter that the actual graze runs longer, the Board finds the statement by Mr. Borine that the allotment is currently not for that longer time period to be credible. Given that the mining operations will occur during the months of November-February, the Board finds that the timing of allotted grazing on BLM land versus the mining operations, significantly minimizes, if not eliminates, the impacts between the grazing and the mining operations. Therefore, the original one-half mile impact area chosen by the Board is still the appropriate impact area.

As a result, the Board finds the testimony and report by Mr. Borine to be more persuasive than the Nash's comments as to the potential impact to cattle grazing in the area, and specifically on the Flat Pasture Allotment. Based upon the size of the Evans Wells Ranch BLM grazing allotment, the location of the grazing allotment, and the evidence from a similar mining site, the Board concludes that the proposed mining would not result in a "significant potential conflict" with respect to the Evans Wells Ranch grazing allotment and the operation of the ranch.

The Board also reiterates and incorporates by reference herein its findings in the prior decisions on this same application. Those decisions include findings on conflicts between mining operations and agricultural activities as follows:

"The Board concludes that the proposed use is separated from the BLM allotment by the Spencer Wells Road. The Board concludes the proposed use will not force a significant change in accepted farming practices in the area. The proposed use will not significantly increase the cost of these accepted farm practices. The existing Spencer Wells Road and the buffering would minimize any conflicts to these agricultural practices."

The Board will require that the applicant coordinate the proposed blasting operations with the Evans Well Ranch grazing allotments, specifically for grazing occurring within one-half mile of the mining site. The purpose being to reduce any conflicts with cattle grazing on the Flat Pasture area within one-half mile of the mine.

The Board finds that the issues raised in the Arras, Watson, Gray, and Soucie letters have been previously addressed in the Board's prior decisions, and need not be repeated here because those issues were raised on appeal to LUBA by the Walkers and LUBA denied those assignments of error, and those denials were not appealed. Those denied issues cannot be addressed again in this decision.

IV. CONCLUSION: The Board hereby approves the plan amendment and zone change in File No. PA-04-8 and ZC-04-6, subject to the following:

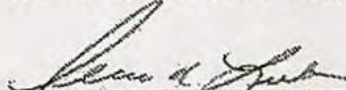
1. The Applicant must meet the general operation standards set forth DCC Section 18.52.110. *See Exhibit "I" to the application submittal.*
2. The Applicant shall conduct the following mitigation:
 - a. "Blasting and crushing will cease during periods of severe winter weather conditions that may force antelope with no alternative winter range into the area adjacent to the rock pit.
 - b. The applicant will allow the Oregon Department of Fish and Wildlife District Biologist (ODFWDB) onsite to monitor severe winter conditions based on snow depth, temperature, and numbers of antelope within 2 miles of the rock pit.
 - c. Upon ODFWDB notification to the applicant when cessation of crushing and blasting is deemed necessary by the ODFWDB due to antelope winter range conditions, the application will cease blasting and crushing as necessary within 24 hrs. of the ODFWDB notice
 - d. The applicant may choose to remove crushing equipment if crushing/blasting cessation is necessary, and this removal will take up to two weeks from the date of notice of cessation."
3. Any fencing of the project must be wildlife friendly fencing that would allow an antelope to pass under the fence with as little risk as possible and must be approved by ODF&W.
 - a. The fencing shall be a three wire smooth wire fence or better with at least 18 inches from the ground to the bottom wire.
 - b. There would be a maximum of 42 inches from the ground to the top wire.
4. The reclamation plan will include replanting with native grasses and shrubs.
 - a. Each year, the Applicant must treat any noxious weeds that might invade the site work.
 - b. The Applicant must work with the Deschutes County Weed Board and adhere to the Weed Board's requirements for eradication of noxious weeds.
5. A 600-foot setback shall be maintained along U.S. Highway 20, the entire length of the project.
 - a. All mining activities shall be set back 200-foot from Deschutes County Road No. 23.

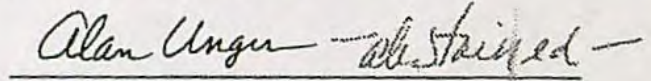
- b. A natural area and buffer of between 100 foot and 250 feet shall be maintained along the south and east sides of the property.
6. All access roads into the property shall be asphalt, and all internal roads shall be paved up to the mining site.
7. Any structures on the property shall be limited to a truck scale, scale control building and well head building.
8. Prior to any mining activities, the applicant shall acquire a water right to provide a pond and water storage, with a pump, to provide for dust control during the excavation and processing of materials on-site, and the water shall be used to provide dust control during the excavation and processing of materials.
9. Beginning with the second stage of mining, the on-site crushing shall occur below grade.
10. Any berms to be located on the property shall:
 - a. not exceed 15 feet in height,
 - b. shall be used to store material for future reclamation, and
 - c. shall be sprinkled with water to reduce dust.
11. Any utility lines on the property shall be underground utility lines.
12. No mining or excavation shall occur within the designated flood plain unless otherwise approved through a conditional use permit process.
13. The property will be reclaimed in its natural state in accordance with an operating and reclamation plan to be approved by DOGAMI. *See Exhibit "H" to the application submittal, incorporated by reference herein .*
14. Applicant shall comply with the regulations adopted by the Office of Surface Mining, U.S. Department of Interior, in order to determine the allowable particle velocity per foot for a residence.
 - a. In addition, the Applicant's first shots will be kept small and monitored with a seismic device that reads particle velocity per foot.
 - b. The Applicant will place the monitoring device off of the 4-R property line adjacent to U.S. Highway 20.
 - c. Once Applicant has the seismic information on the initial blast, Applicant can adjust the blasts accordingly to insure that Applicant stays within these standards.
15. All lighting on the property shall conform to the lighting codes of the County and such lighting must be contained on the property.
16. Applicant shall restrict the access to the property to one road.
17. Based upon the Technical Memorandum prepared by William C.B. Gates, Ph.D., P.E., C.E.G. of Kleinfelder West, Inc. dated January 4, 2008, the Applicant shall install monitoring points at key areas around the mine site be required to monitor vibrations during blasting operations to insure that ground vibrations are within the safe limits established by the Office of Surface Mining; and,

18. Based upon the anemometer data collected by Kleinfelder, blasting will occur when the prevailing wind is blowing away from the Walker residence.
19. Based upon the discussions that some religious or cultural activities might have occurred in the past on the Walker residence, and based upon the Applicant's willingness to restrict certain activities on its property during any such religious or cultural activities, the Applicant shall restrict its blasting activities, upon prior written notification, of any cultural or religious activities that will occur on the Walker property. Any such restriction, however, shall not exceed three (3) days in duration.
20. The applicant shall coordinate blasting activities with the owner of the Evans Well Ranch, so that the grazing of cattle does not take place within one-half mile of the surface mining zone during blasting operations.

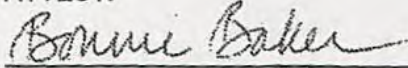
DATED this 15th day of September, 2010.

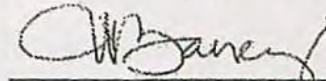
Dated this 15th of Sept., 2010 BOARD OF COUNTY COMMISSIONERS


DENNIS R. LUKE, CHAIR


ALAN UNGER, VICE CHAIR

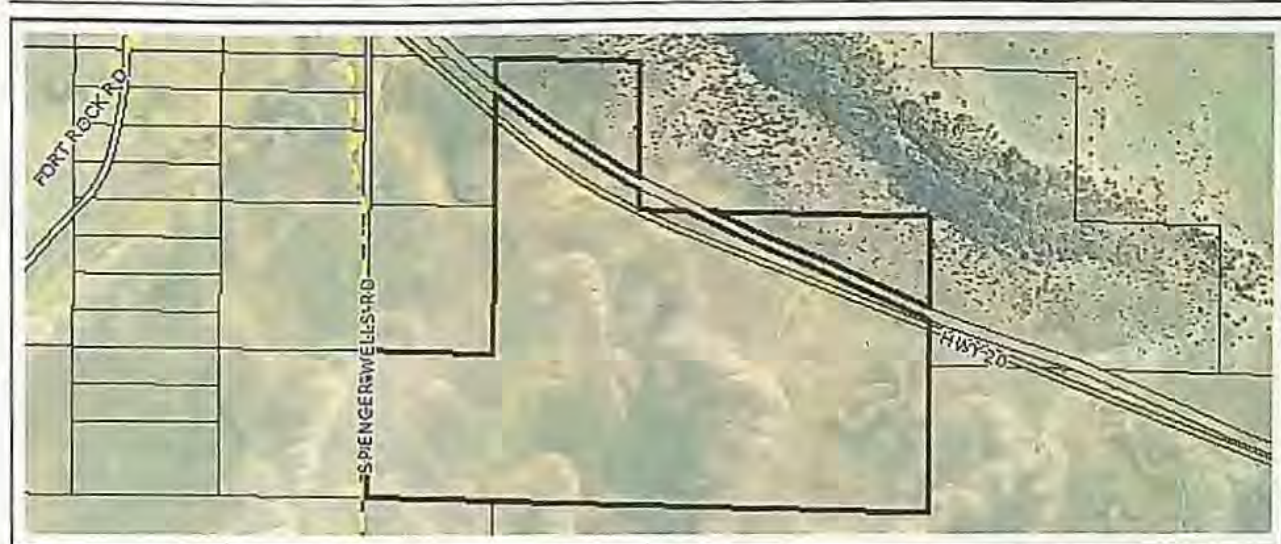
ATTEST:


Recording Secretary


TAMMY BANEY, COMMISSIONER

Deschutes County Property Report

Date: August 26, 2012

**General Information**

Account No: [REDACTED]

Owner: 4 R EQUIPMENT LLC
4 R EQUIPMENT LLC

Situs Address: 57600 SPENCER WELLS RD

Mailing Address: PO BOX 5006
BEND, OR 97708-5006

Prop Class: Subdivision: N/A

Maint Area: 3 Block: N/A

Study Area: 33 Lot: N/A

Zoning:	Description:
EFUHR	EXCLUSIVE FARM USE - HORSE RIDGE SUBZONE
FP	FLOOD PLAIN
LM	LANDSCAPE MANAGEMENT COMBINING ZONE
WA	WILDLIFE AREA COMBINING ZONE

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Land Use Permits

Permit:	App Date:	Status:	Type:	Zoning:
PA048	November 21, 2004	P	Plan Amendment	WA*LM*FP*EFUHR
ZC046	November 21, 2004	P	Zone Change	WA*LM*FP*EFUHR

Inside UGB:

Legal Lot:

Oregon Dept. of Geology & Mineral Industries
Mineral Land Regulation & Reclamation Program
229 Broadalbin St. SW
Albany OR 97321-2246
(541) 967-2039

EXPLORATION PERMIT – Renewal
ISSUED SUBJECT TO ANY LISTED CONDITIONS

|||||
4R Equipment
PO Box 5006
Bend OR 97708

ID No.: 09-0179
County: Deschutes
Section: 30
Twp: 19S
Range: 15E
Tax Lot: 902 1000
Site Name: Spencer Wells Pit

19-15; 902

Issuance of this permit is not a finding of compliance with state-wide planning goals or the acknowledged comprehensive plan. The applicant must receive land-use approval from local government before using this permit. Applicants seeking Exploration Permits from the department should be aware that other state, federal and local agencies may require the applicant to obtain approval prior to operation.

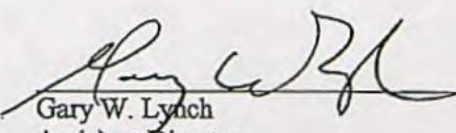
This permit does not authorize entry onto or under the land of another person, including land held by the state or any other governmental entity.

This permit shall be in effect, unless revoked or suspended for cause, from the date of issuance and shall remain in effect so long thereafter as the Permittee pays the annual fee to renew the permit, complies with the provisions of ORS 517.702 through 517.955 as applicable, the Rules as promulgated to administer the Oregon Mined Land Reclamation Act, the approved reclamation plan, and any conditions attached to this permit, and maintains a performance bond as required by the Act.

Conditions:

NONE

Issued 5-14, 2012


Gary W. Lynch
Assistant Director

RENEWAL IS REQUIRED BY MARCH 31, 2013

c: Deschutes County Planning Department

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SALEM, OR

Well Log Query Results *NEW! GPS points, where available, have been added to the far right of the table. Click link to view on map*

Township: 19 S, Range: 15 E, Sections: 30

Well Log	T-R-S/ QQ-Q	Taxlot	Street of Well	Owner	Company	Special Standards	Well Type	First Water Completed Depth	Static Water Level	Yield	Completed Date	Received Date	Bonded Constructor	Startcard	Well Id #	New	Abandon	Deepen	Alteration	Conversion	Domestic	Irrigation	Community	Livestock	Industrial	Injection	Thermal	Dewatering	Piezometer	Latitude/ Longitude
DESC 56538	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89138888, -120.98055555
DESC 56539	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89222222, -120.98111111
DESC 56540	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89111111, -120.98166666
DESC 56541	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89333333, -120.98111111
DESC 56542	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89416666, -120.98194444
DESC 56543	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89472222, -120.98305555
DESC 56544	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89499999, -120.98388888
DESC 56545	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89555555, -120.98499999
DESC 56546	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89583333, -120.98555555
DESC 56547	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89499999, -120.98555555
DESC 56548	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89499999, -120.98583333
DESC 56549	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89416666, -120.98499999
DESC 56550	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89388888, -120.98527777
DESC 56551	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89361111, -120.98583333
DESC 56552	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89444444, -120.98416666
DESC 56553	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89472222, -120.98361111
DESC 56554	19.00S-15.00E-30		57600 SPENCER WELLS RD		4-R EQUIPMENT LLC PO BOX 5006 BEND OR 97708		G	0.00			02/24/2004	02/24/2005				✓	✓													43.89444444, -120.98361111

RECEIVED BY OWRD

SEP 17 2012

SALEM, OH

[Download Data](#)
[Return to Well Log Query](#)



Oregon

Theodore R. Kulungoski, Governor

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

November 1, 2007

RON ROBINSON JR
4-R EQUIPMENT
PO BOX 5006
BEND OR 97708

Reference: File G-16403

Ron Robinson Jr:

Enclosed please find a check in the amount of \$100.00. This refund results from excess fees having been collected for the application referenced above.

If you have any questions, please contact Jeana Eastman, at 503-986-0859.

Sincerely,

E. Timothy Wallin
Water Rights Program Manager

cc: file
Fiscal Section (receipt #88261)

enclosure

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16403

Final Order

Hearing and Appeal Rights

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the above modifications to the proposed final order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a final order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the final order is not subject to judicial review.

Application History

On March 7, 2005, 4-R Equipment submitted an application to the Department for a water use permit. On June 5, 2007, the Department issued a Proposed Final Order concluding that the proposed use will ensure the preservation of the public welfare, safety and health and proposing to approve the application. The protest period closed July 20, 2007, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to limit the annual volume to 6.0 acre feet per year, to correctly describe the measurement, recording and reporting conditions, and to include the following condition:

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to

obtain, from a qualified individual (see below), and submit annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

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

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

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

The Proposed Final Order described the measurement, recording and reporting conditions as:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

The measurement, recording and reporting conditions, as described on the attached permit, are:

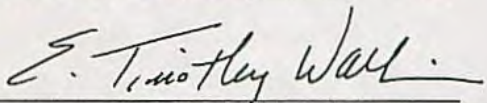
- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Order

As proposed, Application G-16403 will ensure the preservation of the public welfare, safety and health.

Application G-16403 is therefore approved with the above modifications to the Proposed Final Order, and Permit G-16243 is issued due to submission of documentary evidence that 4.2 permanent mitigation credits associated with Mitigation Project MP-27 (Transfer T-9824), within the General Zone of Impact, have been obtained.

DATED November 1, 2007



for Phillip C. Ward, Director
Water Resources Department

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

If you have questions about how to file a protest or if you have previously filed a protest and want to know the status, please contact the Protest Coordinator at 503-986-0820.

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

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1271; Fax: 503-986-0901.

STATE OF OREGON

COUNTY OF DESCHUTES

PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS PERMIT IS HEREBY ISSUED TO

4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

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

APPLICATION FILE NUMBER: G-16403

SOURCE OF WATER: WELL 1 IN DRY RIVER BASIN

PURPOSE OR USE: INDUSTRIAL USE (GRAVEL MINING)

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND, FURTHER LIMITED TO 6.0 ACRE FEET PER YEAR

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 7, 2005

WELL LOCATION: SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 30, T19S, R15E, W.M.; 600 FEET NORTH & 1400 FEET EAST FROM SW CORNER, SECTION 30

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 30

TOWNSHIP 19 SOUTH, RANGE 15 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation as required herein is maintained.

To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and submit annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to submit an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall submit seven consecutive annual reports of static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require that the user obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the

Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations submitted to the Department.

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

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

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

GROUND WATER MITIGATION CONDITIONS

Mitigation Obligation: 4.2 acre-feet annually in the General Zone of Impact, located in the Deschutes River Basin above the Madras gage, which is located below Lake Billy Chinook.

Mitigation Source: 4.2 Mitigation Credits originating from Mitigation Project MP-#27, which is a permanent instream transfer that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s), will occur if the required mitigation is not maintained.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

STANDARD CONDITIONS

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

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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

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

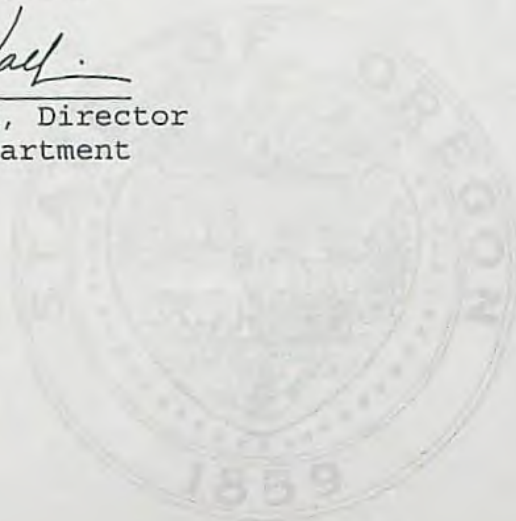
Complete application of the water to the use shall be made on or before October 1, 2012. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

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

Issued November 1, 2007

E. Timothy Ward

for Phillip C. Ward, Director
Water Resources Department



Mailing List for FO Copies

Application #G-16403

Original mailed to:

RON ROBINSON, 4-R EQUIPMENT, PO BOX 5006, BEND, OR 97708

Copies sent to:

1. WRD - File # G-16403
2. Water Availability: Ken Stahr
3. WRD - Laura Snedaker

Copies Mailed	
By: <u>MS</u>	(SUPPORT STAFF)
on: <u>11/2/08</u>	(DATE)

FO and Map Copies sent to:

4. WRD - Watermaster # 11
5. ODFW District Biologist: Amy Stuart & Terry Shrader
6. ODFW: Rick Kepler
7. Columbia River Intertribal Fish Commission
8. US Fish & Wildlife
9. NW Power Planning Council
10. DEQ: Eric Nigg & Bonnie Lamb
11. DOA: Salem: Jim Johnson & Paul Measeles
12. OPRD: Jan Houck & Dave Wright
13. DSL: Nancy Pustis (Bend)
14. DRC - Scott McCaulou

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

1. Zachary Tillman

CASEWORKER : jme

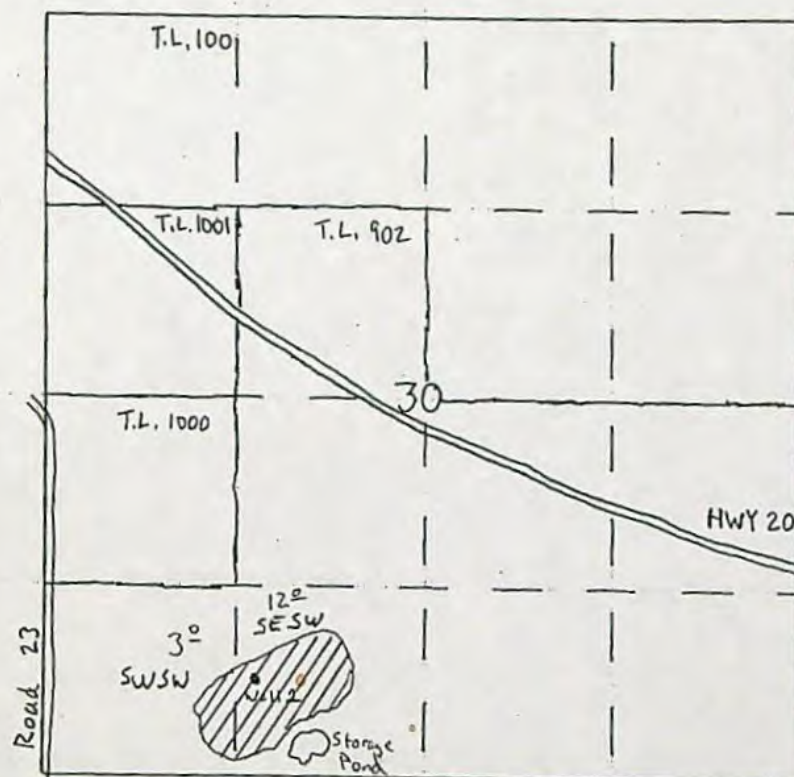
RECEIVED

MAR 07 2005

WATER RESOURCES DEPT
SALEM, OREGON

GROUNDWATER APPLICATION FOR
JACK ROBINSON & SONS

TOWNSHIP 19 SOUTH RANGE 15 EAST
SECTION 30



RECEIVED

FEB 24 2005

WATER RESOURCES DEPT
SALEM, OREGON



SCALE: 1" = 1320'

Well #1 = 1400' East & 600' North of the SW 1/4 of Section 30,
Township 19 South Range 15 East, W.M.

▨ = Industrial P.O.U.

app # G 16403 Permit # G-16243

DESCHUTES GWSA FO CHECKLIST

Applicant: _____ Application #: y-16403

☒ Has applicant name and/or address changed, or has the file been assigned? Y / ☒ N
If new: _____

☒ Were comments received? If so, from whom and when? _____
Respond to significant comments, issues, or disputes related to the proposed use of water

☒ Mitigation team notified? ☒ Y / ☐ N Comments rec'd? non-sig

☒ Verify names and mailing addresses of all commentors, affected landowners and those who paid \$10 fee on PFO cc: list.

☒ Have affected landowner(s) been notified? Y / N / NA If not, do not issue FO. Send a letter to affected landowner(s).

☒ Has applicant provided mitigation information ☒ Y / ☐ N If yes, has documentary evidence been submitted? yes

☒ Will the mitigation be provided incrementally? Y / ☒ N

☒ Are requested GW conditions included in permit? Y / ☒ N If not, add condition(s) 7c

☒ Do PFO conclusions require modification due to typos or errors? ☒ Y / ☐ N What and why? 1st to 12.0 at yr/vol per Laura Smedaker, & add 7c

☒ Fees

Base Fee	Water Amount (Q)
\$100 / \$150	1 st CFS/AF
\$250 / \$300	
	_____ Addl @ _____ + _____
_____ + _____	_____ = _____
(base)	(Q) (total exam fee)

EXAM FEE REQUIRED	<u>500</u>	RECORDING FEE REQUIRED	\$175 / \$250 / \$300
EXAM FEE PAID	<u>- 500</u>	RECORDING FEE PAID	<u>- 350</u>
STILL OWED	<u>0</u>	STILL OWED	<u>* \$ 50 refund</u>

FO type ☐ DENIAL ☒ FO w/ Permit # y-16243 ☐ FO w/o permit ☐ lacks fees
☐ lacks easement
☐ lacks documentary evidence

Name: Jeana Eastman Date: 10/9/07 Peer Reviewer: alyssa ✓

The purpose of this checklist is to be used as a working document by Department staff to aid in the production of the related Initial Review, Proposed Final Order, or Final Order. It is not intended to be a complete record of all factors which were considered to produce the document, nor is it intended to serve any purpose other than that stated above. The related Initial Review, Proposed Final Order, or Final Order is intended to stand alone as the record of factors considered in its production.

S:\groups\wr\DGWSA_DESCHUTES RELATED FORMS\FO checklist.wpd

Jenae

Anita Huffman

From: Laura Snedaker
Sent: Friday, May 25, 2007 8:01 AM
To: Anita Huffman
Subject: Documentary Evidence for Application G-16403 (Robinson - 4R Equipment)

Anita:

On May 21, 2007, we received documentary evidence of use of credits for ground water application G-16403 in the name of Ron Robinson, 4R Equipment. The Documentary Evidence form identifies that 4.2 mitigation credits are to be assigned to this ground water application from MP-27 to satisfy its mitigation obligation.

This ground water application has a mitigation obligation of 4.2 AF in the General Zone of Impact.

MP-27 is a permanent instream transfer (T-9824) that generated mitigation credits that may be used in the General and Middle Deschutes Zone of Impact. Credits were awarded to this project as part of the issuance of instream water right Certificate 81324. 4R Equipment (Ron Robinson) is one of several mitigation credit holders under this project. This account contains sufficient mitigation credits to satisfy the mitigation obligation of ground water permit application G-16403. Therefore, 4.2 mitigation credits have been removed from the 4R Equipment account and assigned to application G-16403. Once the permit for this application is issued, these credits will be considered used and no longer valid.

Thanks, Laura

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

5/25/2007

DESCHUTES BASIN PFO CHECKLIST

APPLICANT: UR Equipment - Ron Robinson Application #: G 16403 PRIORITY DATE 3/7/05

WELL ID proposed

1. Is the file complete by the Minimum Requirements Checklist? Y/N
2. Mitigation Team review completed? Y/N Date notified: 2/20/07
Comments Received? Y/N DSL - non-significant
3. Zone of Impact General
4. Proposing Credits? Y/N Mitigation Credits Needed 4.2 AF
5. Mitigation Source MP-27 T 9824 Expired at time of PFO? Y/N
6. Proposing a Project? Y/N
7. Incremental Mitigation? Y/N If yes, note dates and amount _____
8. If incremental and use is Q-muni, do they expect to begin construction within five years of permit issuance? Y/N
9. Have conflicts been addressed? Y / N / No Conflicts
10. Rate N/A Duty _____ Period of Allowed Use Y/N
12. Allowed Rate of Use 1 cfs
13. Large (≥ 1.5 cfs, ≥ 100 AF)? If the use is Municipal use Large TOTALIZING condition.
14. Conditions _____
15. IR Public Notice Date _____ Comments Received? Y / N _____
16. Was the application filed on or after October 23, 1999? Y / N If yes, then no A date.

NOTES:

MP 27 - 13.59 credits
MP-3 - 6.41 Credits
20 credits total

MP 27 - 13.59
(8.4) G16519
(4.2) G16403
(.99) G16642
Q

NOTE - no doc
ev
rec'd
at this
point.

G16403 - 4.2 (MP-27)
G16519 - 8.4 (MP-27)
G16642 - 7.4 (.99-MP-27; 6.41-MP3)

Name: Steffman
Peer Reviewer James

Date: 5/14/07
Date: 5/18/07

IR CHECKLIST DESCHUTES GROUNDWATER STUDY AREA

Application #: 616403 Applicant: UP EDUOP WID# 30530501

Use(s): IND. (MINING) 100 on 15 Acres Priority Date: 3/7/05

Dry River Subbasin

☒ If quasi/muni, reviewed by Bill Fujii Y / N / NA

☒ Is the application complete? Y / N

☒ GW Review ☐ will not ☒ will likely be available ...without injury... and/or within the capacity of the resource
☐ conditions 7B, 7C

☒ Is there a conflict? Y / N / NA

☐ If conflict, are rights from a different source? ☐ If supplemental, ☐ check for primary right on same land
☐ will this be making up a deficiency in rate?

☒ Zone of Impact General Mitigation Obligation See attached (4.2 AF)
☒ 303D Y / N / NA BOTTLED WATER Y / N (cc: DOA Food Safety Division)

☒ Rate N/A Rate Max 100 - 0.2 Req

Duty Season Allowed 4/12 Req

☒ Land use approval OK needs approval county notified NA in LUBA no permit till shown
LU is OK

☒ Does the applicant intend to begin use within 5 years? Y / N (If not, bring to supervisor's attention.)

☒ Statement allowing someone to act as authorized agent? Y / N / NA Agent Name: _____

☒ Other Conditions: (Not DGWSA conditions) PN

Medium > 0.1 or < 1.5 CFS, > 9.2 or < 100 AF, Large > 1.5 CFS, ≥ 100 AF

uses that require Large w/totalizing meter: Muni/Q-muni with incremental mitigation

☒ Basin Maps have been checked Y N River Mile _____

☒ EWRE, representative, etc. to notify? Y / N

☒ Addn'l info req'd? Y / N LU OK > Permit, NAMA Ack
 (If Y, send certified)

☒ Attachments included? Y / N / NA NAMA Ack form

Fees Base Fee Water Amount (Q)

\$100 / \$150

1" CFS/AF

\$250 / \$300

200

_____ Addl CFS/AF @ _____ + _____

(base) 300 - + 200 = 500
 (Q) (total exam fee)

The purpose of this checklist is to be used as a working document by Department staff to aid in the production of the related Initial Review, Proposed Final Order, or Final Order. It is not intended to be a complete record of all factors which were considered to produce the document, nor is it intended to serve any purpose other than that stated above. The related Initial Review, Proposed Final Order, or Final Order is intended to stand alone as the record of factors considered in its production.

EXAM FEE REQUIRED 500
 EXAM FEE PAID 500
 STILL OWED 0

Name: Anita Huffman Date: 1/31/07

Peer Reviewer: Kerry

G-16403

USE	Q	VOLUME	MIF FACTOR	MIF AS
DUST AB.	466PM	325842 1/AF	100%	1.00 AF
GRAVEL	4006PM	1629255 5/A	10%	.50 AF
BULGE/RES PM	26PM	977,5536A/3AF 1 AC S/A	2.67 per email 9/25/06	8.01 AF 2.67
	4486PM 1cb	2932650G 9.0 AF 16.0 AF		9.57 AF m/b or 4.17 AF/mo.

total M.O. 15
4.17 AF
or 4.2 AF

MP 3 = 6.41 - General
MP 27 13.59 General/mid. } 20 AF total

G-16403 - General 4.2 AF

1cb @ 2932650 GPY
15 AC area
MAX 9 AF yr.

Water Right Conditions Tracking Slip

Groundwater/Hydrology Section

FILE ## G-16403

ROUTED TO: Water Rights

TOWNSHIP/

RANGE-SECTION: 19S/15E-30

CONDITIONS ATTACHED? ☒ yes ☐ no

REMARKS OR FURTHER INSTRUCTIONS:

W/in USGS Deschutes

GW study Area.

Reviewer: K. Lite

PUBLIC INTEREST REVIEW FOR GROUND WATER APPLICATIONS

TO: Water Rights Section Date 5/10/2005

FROM: Ground Water/Hydrology Section K. Lite
Reviewer's Name

SUBJECT: Application G- 16403 Supersedes review of _____
Date of Review(s) _____

PUBLIC INTEREST PRESUMPTION: GROUNDWATER

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

A. GENERAL INFORMATION: Applicant's Name: 4-R Equipment County: Deschutes

- A1. Applicant(s) seek(s) 1.00 cfs from 1 well(s) in the Deschutes Basin,
Dry River subbasin Quad Map: Millican
- A2. Proposed use: Industrial Seasonality: Year-around
- A3. Well and aquifer data (attach and number logs for existing wells; mark proposed wells as such under logid):

Well 1	Logid	Applicant's Well #	Proposed Aquifer*	Proposed Rate(cfs)	Location (T/R-S QQ-Q)	Location, metes and bounds, e.g. 2250' N, 1200' E fr NW cor S 36
1	Proposed	1	Layered Lavas	1.00	19S/15E-30ABC	600' N, 1400' E fr SW cor, S 30
2						
3						
4						
5						

* Alluvium, CRB, Bedrock

Well	Well Elev ft msl	First Water ft bls	SWL ft bls	SWL Date	Well Depth (ft)	Seal Interval (ft)	Casing Intervals (ft)	Liner Intervals (ft)	Perforations Or Screens (ft)	Well Yield (gpm)	Draw Down (ft)	Test Type
1	4200				est 1100	est 18	est 18					

Use data from application for proposed wells.

A4. Comments: WELL WILL BE CONSTRUCTED INTO LAYERED LAVA FLOWS, SIMILAR TO THE DESCHUTES FORMATION. GROUND-WATER FLOW IS TOWARDS THE NORTH-NORTHWEST, WITH THE NEAREST POTENTIAL DISCHARGE AREA (GAINING REACH OF THE CROOKED RIVER) ABOUT 36 MILES DISTANCE.

A5. ☒ Provisions of the Deschutes Basin rules relative to the development, classification and/or management of ground water hydraulically connected to surface water ☒ are, or ☐ are not, activated by this application.
(Not all basin rules contain such provisions.)
Comments: WELL WILL BE LOCATED WITHIN THE USGS DESCHUTES GROUND WATER STUDY AREA.

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

app # G 16403

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

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

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

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

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

- B3. Ground water availability remarks: THERE ARE NO NEARBY STATE OBSERVATION WELLS. THE NEAREST STATE OBSERVATION WELL WITH A LIKELY SIMILAR RESPONSE IS OBS WELL 1324 (DESC 53516), ABOUT 32 MILES TO THE EAST-SOUTHEAST. IT HAS BEEN MONITORED PERIODICALLY SINCE 1993. STATE OBSERVATION WELL 1324 SHOWS A SLIGHTLY UNDULATING, BUT OVERALL DOWNWARD TREND THROUGHOUT THE PERIOD OF RECORD. THIS TREND IS CONSISTENT WITH CLIMATE CYCLES. SINCE 1994, THE WATER LEVEL HAS DROPPED ABOUT 2.5 FEET, MOSTLY AS A RESULT OF DECREASED RECHARGE.

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

Well #	Aquifer or Proposed Aquifer	Confined	Unconfined
		☐	☐
		☐	☐
		☐	☐
		☐	☐
		☐	☐

Basis for aquifer confinement evaluation: _____

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

Well	SW #	Surface Water Name	GW Elev ft msl	SW Elev ft msl	Distance (ft)	Hydraulically Connected?			Potential for Subst. Interfer. Assumed?	
						YES	NO	ASSUMED	YES	NO
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐
						☐	☐	☐	☐	☐

Basis for aquifer hydraulic connection evaluation: _____

Water Availability Basin the well(s) are located within: _____

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

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

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

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

Comments: _____

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

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

Basis for impact evaluation:

C5. ☐ If properly conditioned, the surface water source(s) can be adequately protected from interference, and/or ground water use under this permit can be regulated if it is found to substantially interfere with surface water:

- i. ☐ The permit should contain condition #(s) _____;
- ii. ☐ The permit should contain special condition(s) as indicated in "Remarks" below;

C6. SW / GW Remarks and Conditions

Version: 08/15/2003

D. WELL CONSTRUCTION, OAR 690-200

- D1. Well #: _____ Logid: _____
- D2. THE WELL does not meet current well construction standards based upon:
- a. ☐ review of the well log;
 - b. ☐ field inspection by _____;
 - c. ☐ report of CWRE _____;
 - d. ☐ other: (specify) _____
- D3. THE WELL construction deficiency:
- a. ☐ constitutes a health threat under Division 200 rules;
 - b. ☐ commingles water from more than one ground water reservoir;
 - c. ☐ permits the loss of artesian head;
 - d. ☐ permits the de-watering of one or more ground water reservoirs;
 - e. ☐ other: (specify) _____
- D4. THE WELL construction deficiency is described as follows: _____

- D5. THE WELL a. ☐ was, or ☐ was not constructed according to the standards in effect at the time of original construction or most recent modification.
- b. ☐ I don't know if it met standards at the time of construction.
- D6. ☐ Route to the Enforcement Section. I recommend withholding issuance of the permit until evidence of well reconstruction is filed with the Department and approved by the Enforcement Section and the Ground Water Section.

THIS SECTION TO BE COMPLETED BY ENFORCEMENT PERSONNEL

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

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

Oregon Water Resources Department

MEMO

May 10, 2005

TO Application G- 16403

FROM GW: K. Lite
(Reviewer's Name)

SUBJECT Scenic Waterway Interference & General/Local Surface Water Impact
Evaluation for Deschutes Ground Water Study Area

The source of appropriation is within or above the Deschutes Scenic Waterway

Use the Scenic Waterway condition (Condition 7J).

PREPONDERANCE OF EVIDENCE FINDING UNDER ORS 390.835:

The Department has found that there is a preponderance of evidence that the proposed use of ground water will measurably reduce the surface water flows necessary to maintain the free-flowing character of the Deschutes Scenic Waterway in quantities necessary for recreation, fish and wildlife.

LOCALIZED IMPACT FINDING

☐

The proposed use of ground water will have a localized impact to surface water in the

_____ River/Creek Subbasin

If the localized impact box above is checked, then the water use under any right issued pursuant to this application is presumed to have a localized impact on surface water within the identified subbasin. Mitigation of the impact, originating from within the Local Zone of Impact identified by the Department, will be required before a permit may be issued for the proposed use.

If the localized impact box above is not checked, then the water use under any right issued pursuant to this application is presumed to have a general (regional) impact on surface water. Mitigation of the impact, originating anywhere within the Deschutes Basin above the Madras gage, will be required before a permit may be issued for the proposed use.

WATER RESOURCES DEPARTMENT MEMORANDUM

DATE 5/10/2005

APPLICATION_NUMBER G 16403

OWNER 4-R EQUIPMENT

AMOUNT_REQUESTED 448 GPM NUMBER_OF_WELLS 1 BASIN DESCHUTES

QUADRANGLE_MAP_1 MILLICAN SUB_BASIN DRY RIVER
COUNTY DESCHUTES

WELL_# 1 WELL_LOG_STATUS NOT YET DRILLED POA_AMOUNT 448 GPM

WELL_LOG_NUMBER DPN_LOG_1

TWNSHP 19S RANGE 15E SECTION 30 QQQ ABC

PROPOSED_LEGAL_LOCATION 6000 FEET NORTH AND 1400 FEET EAST FROM THE SW CORNER, SECTION 30

DISTANCE_FROM_STREAM_1 15.4 MILES STREAM_1 BEAR CREEK

DISTANCE_FROM_STREAM_2 17.8 MILES STREAM_2 CROOKED RIVER

PROPOSED_WELL_DEPTH 1100

WELL_ELEV 4200 STREAM_ELEV 3560 WELL_ELEV_minus_STREAM_ELEV 640

WELL_DEPTH SWL

SEAL_DEPTH SWL_DATE

CASING_DEPTH FIRST_WATER_DEPTH

LINER_DEPTH WELL_TEST_1_TYPE

PERFORATIONS_SCREEN_1 YIELD_1 GPM

PERFORATIONS_SCREEN_2 DRAWDOWN_1

AQUIFER_TYPE UNCONFINED DURATION_1 HR

HYDRAULIC_CONNECTION NOT AT NEAREST REACH

DIVISION_9_FINDING POTENTIAL FOR SUBSTANTIAL INTERFERENCE

ZONE_OF_IMPACT MAIN STEM DESCHUTES RIVER

CONDITIONED_WATER_RIGHTS_IN_AREA SEE ATTACHMENTS

OTHER_NEARBY_WATER_RIGHTS SEE ATTACHMENTS

DENSITY_OF_NEARBY_WELLS SEE ATTACHMENTS

COMMENTS WELL WILL BE CONSTRUCTED INTO LAYERED LAVA FLOWS AND SEDIMENT, SIMILAR TO THE DESCHUTES FORMATION. GROUND-WATER FLOW IS TOWARDS THE NORTH-NORTHWEST, WITH THE NEAREST LIKELY DISCHARGE AREA (GAINING REACH OF THE CROOKED RIVER) ABOUT 36 MILES DISTANCE. WELL IS LOCATED WITHIN THE DESCHUTES GROUND WATER STUDY AREA AND SUBJECT TO DIVISION 690-505-0500 TO 0620.

REFERENCES USGS WRI REPORT 00-4162; USGS WRI REPORT 02-4015; USGS GEOL MAP I-493; MILLICAN, WEST BUTTE, AND BROTHERS NW QUADRANGLE MAPS; APPL. FILE G-16403; WELL REPORT DESC 1603 (NEARBY); DIVISION 690-505.

Well Location

21.00S20.00E8CCB

Oregon Water Resources Department Well Log ID

DESC 53516

Oregon Water Resources Department State Observation Well Number

1324

Well depth, in feet below land surface

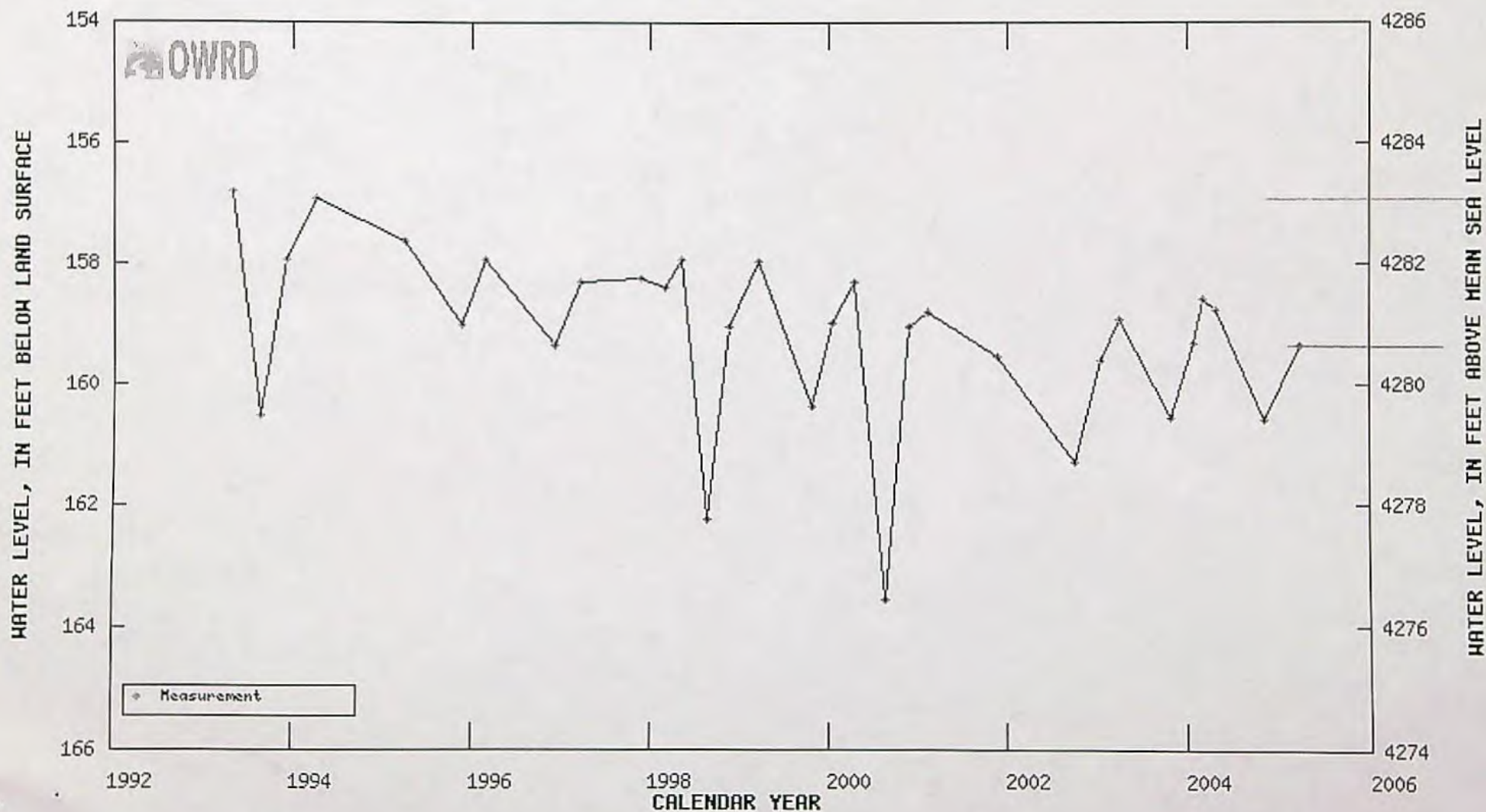
400

Land surface elevation, in feet above mean sea level

4440

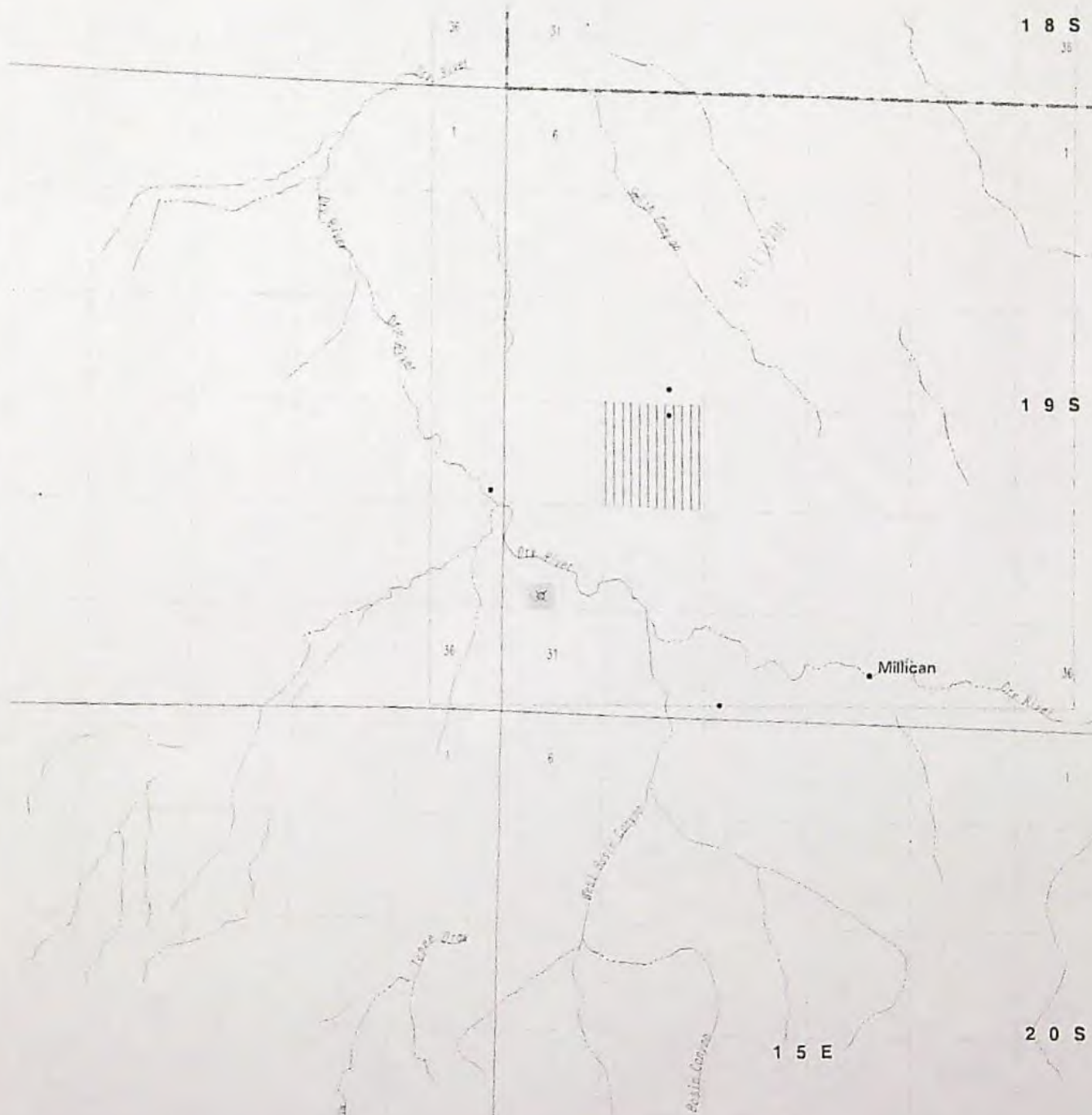
Primary use of well

not determined



Wells in the vicinity of application G 16403

- | | | | |
|---|---|---|---|
|  Application well(s) in this 1/4-1/4 section | • Well(s) identified in this 1/4-1/4 section from DWRD's well log database within 1 mi. radius of application well(s) | ○ Conditioned, permitted well(s) in this 1/4-1/4 section within 5 mi. radius of application well(s) |  Critical GW Area |
|  Well(s) identified in this section from DWRD's well log database within 1 mi. radius of application well(s) | ◻ Permitted well(s) in this 1/4-1/4 section within 1 mi. radius of application well(s) | ▲ DWRD Observation well and well-id within 5 mi. radius of application well(s) |  Regulated GW Area |



WELL LOGS WITHIN 1 MILE OF APPLICATION G 16403

ABANDON: 1
 RECONDITIONED: 0
 REPAIRED: 0
 CONVERSION: 0
 DEEPENINGS: 3
 NEW CONSTRUCT: 5

COMMUNITY USE: 0
 DOMESTIC USE: 8
 INDUSTRIAL USE: 0
 INJECTION USE: 0
 IRRIGATION USE: 0
 THERMAL USE: 0
 LIVESTOCK USE: 0

PERMITTED WELLS WITHIN 1 MILE OF APPLICATION G 16403

\$RECNO	APPLICATION PERMIT	CLAIM	LOC-QQ	USE_CODE
1	G 16403	0	0 19.00S15.00E30SESW	IM

NO CONDITIONED WELLS WITHIN 1 MILE OF APPLICATION G 16403

APPLICATION G 16403 FALLS WITHIN THESE QUAD(S)

MILLICAN

Anita Huffman

From: Jeremy Giffin [Jeremy.T.Giffin@wrdd.state.or.us]
Sent: Monday, September 25, 2006 2:35 PM
To: 'Anita Huffman'
Subject: RE: 4 R Equipment

Anita, I worked with the applicant today on G-16403 and got the added materials. For the gravel processing portion of the right they will need 400 GPM and for the dust abatement portion they are requesting 46 GPM as they only plan on watering 6 acres at most at a time for dust abatement at 6 GPM per acre and for the pond they plan on using 2 GPM for the bulge in the system. For the pond evaporation we figured 977,553 gallons or 3 AF for the year. For Dust abatement we figured 325,842 gallons or 1 AF per year. And for the gravel processing we figured 1,629,255 gallons or 5 AF per year. All of these uses added together get us to the 2,932,650 gallons per year asked for on the original application. The surface of the reservoir will be 1 acre in surface area (for evaporation purposes) and the volume will be 4 AF, the pond will be lined so that it does not leak. And as for the land use the applicants won at the county commissioner hearing on a vote of 3-0, however the opponents still have an opportunity to file an appeal with LUBA. They have not done so as of yet, but the time period to do so is soon going to close. Let me know if you need any further information.

--Jeremy

-----Original Message-----

From: Anita Huffman [mailto:Anita.M.HUFFMAN@wrdd.state.or.us]
Sent: Wednesday, September 20, 2006 1:15 PM
To: 'Jeremy Giffin'
Subject: 4 R Equipment

Hey Jeremy,

I'm working on the two apps for 4R equipment and I need some info from you. I asked you before on one app, but I need more clarification, and since the two are virtually the same type of use, the questions pertain to each, but I need a specific Q for each type of use for each application.

So, please help me here...

G-16403

USE-INDUSTRIAL

It has approximately 15 acres of area and a storage pond noted on the map.

Uses (form Q) include gravel processing and dust abatement. The Q noted is 448.0 GPM.

I need to know the following (I will calculate the mitigation obligation for each use):

Volume for dust abatement (mitigation obligation is 100%) Volume for rock processing (mitigation is 10%) Surface area of res and volume of storage. Even if it's just a bulge, there are evaporative losses we have to account for.

Also, for this application, the land use form says that a plan amendment and zone change are being pursued. I can't do a permit for this until the LU is settled. Of course, we're a ways off from permit, but if they have an update on the land use, it would be a big help for me in the long run.

G-16519

USE-INDUSTRIAL

This shows 34 acres for dust abatement. I think you already gave me info on this one...they were proposing 1M Gallons annually for dust abatement.

I still need a volume for the rock crushing and I need more info on the storage (bulge)...again, size, volume, etc.

I will do both of these apps at the same time.

I hope you can help me out with these, I'd like to get them out. I'm working on a slew of DGWSA IR's...and you should be seeing a bunch of FO's and permits shortly. I am expecting Redmond's reduction from 75CFS to below 20CFS any time, and I even heard that the City of Bend is planning to get resolution on their 2 for 24 CFS. Things be moving along!

Please let me know what you can find out on these two files. Thanks.

Anita Huffman
Water Rights Caseworker
Water Rights Division
Oregon Water Resources Department
VOICE: 503-986-0815 FAX: 503-986-0901

Anita Huffman

From: Anita Huffman [Anita.M.HUFFMAN@wrdd.state.or.us]
Sent: Wednesday, September 20, 2006 1:15 PM
To: 'Jeremy Giffin'
Subject: 4 R Equipment

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G-16403

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Also, for this application, the land use form says that a plan amendment and zone change are being pursued. I can't do a permit for this until the LU is settled. Of course, we're a ways off from permit, but if they have an update on the land use, it would be a big help for me in the long run.

G-16519

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Anita Huffman
Water Rights Caseworker
Water Rights Division
Oregon Water Resources Department
VOICE: 503-986-0815 FAX: 503-986-0901

Anita Huffman

From: Jeremy Giffin [Jeremy.T.Giffin@wrdd.state.or.us]
Sent: Monday, May 08, 2006 10:46 AM
To: 'Anita M Huffman'
Subject: RE: 4R equipment application G16403

Anita, Per our conversation on Friday, They will be pumping directly from the well to the pond. The pond will be 50' by 50' and 8' deep on average for a total volume of .459 AF. For the rock crushing/processing part they will need 15 gpm for 10 hrs out of the day for 300 days per year. This comes up to 9000 gallons per day (they are allowed 5,000 gallons exempt for industrial each day) So after their exempt amount they need 4000 gallons per day that they have to mitigate for. This comes to 3.68 AF (4000 gpd times 300 days a year) The dust abatement will be both irrigation sprinklers on the rock piles and some truck filling and road watering. The map that we supplied earlier showed all of the potential areas that could support gravel piles that would need watering. The applicant would like to take the rest of the water (the 9 af) and use it for dust abatement. The applicant would like the permit to read 1 cfs (even though they would probably never need that rate they would like the ability to use it) for a total amount of mitigation obligation of 9 af. I am not sure exactly how you do the math, so I was going to let you figure the leftover amount of mitigation required for the dust abatement if that is alright. Give me a call if this does not make any sense.

--Jeremy

-----Original Message-----

From: Anita M Huffman [mailto:Anita.M.HUFFMAN@wrdd.state.or.us]
Sent: Monday, May 01, 2006 2:36 PM
To: Jeremy Giffin
Subject: RE: 4R equipment application G16403

Is it a true bulge? If they're storing it year round, I have to find some mitigation for it. I didn't get you that letter, I'll do that today. Friday was nuts.
AH

At 02:12 PM 5/1/2006, you wrote:

>Anita, I am writing all of this down to talk with the applicant, but I
>do not understand why the applicant has to mitigate for a bulge in the system.
>If bulges in the system do not require a water right than why would
>they require mitigation? Is someone making this protocol or is it on an
>individual basis?

>

>--Jeremy

>

>-----Original Message-----

>From: Anita M Huffman [mailto:Anita.M.HUFFMAN@wrdd.state.or.us]
>Sent: Friday, April 28, 2006 10:36 AM
>To: Jeremy.T.GIFFIN@wrdd.state.or.us
>Subject: 4R equipment application G16403

>

>Hey Jeremy,

>

>I've had this file sitting on my desk for ages, wondering just what I
>need to be able to process it. I just finished up the file for Hooker
>Creek, and it's essentially the same type of use as 4R. Hooker Creek
>took a lot of finessing, but I now have a method in place for mining
>operations and I think we can use that same format for this one.

>

>I know they're (4R) planning to use water for rock crushing/washing and
>dust abatement. The water is going to go into a cistern or pond.
>Hooker Creek's operation has water pumped from the well to the
>rock/sand washing, then that water goes to a pond. From there it's
>pumped into the dust abatement trucks. There is some irrigation, but
>it also uses the recycled/reclaimed rock washing water.

>
>Is this what 4R is doing?
>
>We have determined the consumptive use for rock processing to be about
>5% consumptive. Dust abatement is 100% consumptive and the evaporation
>rate for stored water is figured at 2.67%. Given those factors, I need
>a clearer explanation of the total Q and the volume/SA of the res.
>
>So what I have showing on the application is the requested Q of 1 CFS
>with a total annual volume of 2,932,650 G, or 9.0AF
>
>You note that the dust abatement is proposed at 3.6MG...that's 11.04
>AF. I've got some conflict here. I also have an earlier email that
>says there are notes of 80,000 GPD, but I can't find that info in the
>file.
>
>What I need is a definite, clear description of the Q or volume for
>each use. Realizing that they might pump 1cfs from the well, but their
>mitigation obligation is going to be determined on how that water is
>used volumetrically. They will have more than one amount to mitigate
>for, in other words. But the permit would read 1cfs, with a max volume
>of _____.
>
>I also need the size (surface area) and volume of the res, even tho
>it's like a bulge in the system. I still have to figure mitigation on
>that.
>
>Please let me know the total annual volume, then the volume for dust
>abatement (you note 20,000 GPD for 180 mos at 3.6 MG). Finally, the
>total volume on the rock crushing.
>
>I'll fax you a copy of the letter Tom Walker sent me to clarify Hooker
>Creek, and I've attached a copy of the IR, so you see how it's been
>crafted. I realize this is a mess to figure out, but I have to look at
>all these nuances with these things.
>
>Hey, it's a sunny, beautiful day in Salem, it's Friday, and it can't
>get much better than that. Hope you're having the same type of a day!
>AH
>
>from the 9.0 AF we'd have 5% be consumptive (.45AF) for rock processing
>
>
>You've noted they will use about 3.6MG annually for dust abatement

Anita Huffman

From: Jeremy Giffin [Jeremy.T.Giffin@wrд.state.or.us]
Sent: Monday, May 01, 2006 2:13 PM
To: 'Anita M Huffman'
Subject: RE: 4R equipment application G16403

Anita, I am writing all of this down to talk with the applicant, but I do not understand why the applicant has to mitigate for a bulge in the system. If bulges in the system do not require a water right than why would they require mitigation? Is someone making this protocol or is it on an individual basis?

--Jeremy

-----Original Message-----

From: Anita M Huffman [mailto:Anita.M.HUFFMAN@wrд.state.or.us]
Sent: Friday, April 28, 2006 10:36 AM
To: Jeremy.T.GIFFIN@wrд.state.or.us
Subject: 4R equipment application G16403

Hey Jeremy,

I've had this file sitting on my desk for ages, wondering just what I need to be able to process it. I just finished up the file for Hooker Creek, and it's essentially the same type of use as 4R. Hooker Creek took a lot of finessing, but I now have a method in place for mining operations and I think we can use that same format for this one.

I know they're (4R) planning to use water for rock crushing/washing and dust abatement. The water is going to go into a cistern or pond. Hooker Creek's operation has water pumped from the well to the rock/sand washing, then that water goes to a pond. From there it's pumped into the dust abatement trucks. There is some irrigation, but it also uses the recycled/reclaimed rock washing water.

Is this what 4R is doing?

We have determined the consumptive use for rock processing to be about 5% consumptive. Dust abatement is 100% consumptive and the evaporation rate for stored water is figured at 2.67%. Given those factors, I need a clearer explanation of the total Q and the volume/SA of the res.

So what I have showing on the application is the requested Q of 1 CFS with a total annual volume of 2,932,650 G, or 9.0AF

You note that the dust abatement is proposed at 3.6MG...that's 11.04 AF. I've got some conflict here. I also have an earlier email that says there are notes of 80,000 GPD, but I can't find that info in the file.

What I need is a definite, clear description of the Q or volume for each use. Realizing that they might pump 1cfs from the well, but their mitigation obligation is going to be determined on how that water is used volumetrically. They will have more than one amount to mitigate for, in other words. But the permit would read 1cfs, with a max volume of _____.

I also need the size (surface area) and volume of the res, even tho it's like a bulge in the system. I still have to figure mitigation on that.

Please let me know the total annual volume, then the volume for dust abatement (you note 20,000 GPD for 180 mos at 3.6 MG). Finally, the total volume on the rock crushing.

I'll fax you a copy of the letter Tom Walker sent me to clarify Hooker Creek, and I've attached a copy of the IR, so you see how it's been crafted. I realize this is a mess to figure out, but I have to look at all these nuances with these things.

Hey, it's a sunny, beautiful day in Salem, it's Friday, and it can't get much better than

that. Hope you're having the same type of a day!
AH

from the 9.0 AF we'd have 5% be consumptive (.45AF) for rock processing

You've noted they will use about 3.6MG annually for dust abatement

Refers to 6-16519
not
616403

From: "Jeremy Giffin" <Jeremy.T.GIFFIN@wrд.state.or.us>
To: "Anita M Huffman" <Anita.M.HUFFMAN@wrд.state.or.us>
Subject: Re: 4R Equipment application questions
Date: Thu, 8 Dec 2005 09:43:25 -0800
X-Mailer: Microsoft Outlook Express 6.00.2800.1506
X-Virus-Scanned: by BendBroadband Relay Firewall at bendbroadband.com
X-Spam-Checker-Version: SpamAssassin 2.63 (2004-01-11) on
kettle.wrд.state.or.us
X-Spam-Status: No, hits=0.1 required=5.0 tests=RCVD_IN_SORBS autolearn=no
version=2.63
X-Spam-Level:

Anita, I just finished talking with the applicants and got some of the answers below.

--Jeremy

----- Original Message -----

From: "Anita M Huffman" <Anita.M.HUFFMAN@wrд.state.or.us>
To: <Jeremy.T.GIFFIN@wrд.state.or.us>
Sent: Thursday, December 08, 2005 9:25 AM
Subject: 4R Equipment application questions

> Hi Jeremy.
>
> I just got the app for 4R Equipment back from Ken Lite and I have a few
> questions about this file. It says to contact you.
>
> 1. Is this a mining application? It's filed as commercial, but info
> indicates it may be mining.

It is basically mining, but we wanted to have a little bit more flexibility on the water use and was not sure if mining would give us that (dust abatement, bulge/pond, gravel crushing-processing). The water will be pumped from the well into a pond or cistern (more likely a pond) and then they will truck 5 4,000 gallon loads of water around a 34 acre area keeping the dust down. Water will also be pumped from the pond to the rock crusher to wash the rock down as it is being crushed. We ran all of the numbers on the app. pretty high to allow for long term build out of the gravel crushing operation.

- > 2. The app requests 55 GPM year round, and notes 34 acres of dust
- > abatement. The form Q notes Dust Abatement, rock product processing, and
- > there is also info noting that the use will be 80,000 GPD. This is a two
- > parter...
- > a) since dust abatement is considered 100% consumptive, what is the
- > estimated total volume for the use? Obviously they won't be using dust
- > abatement during precipitation days, so having a better feel for the total
- > annual amount for dust abatement will make their mitigation obligation
- more
- > concise.

After talking with the applicant on this he dialed in the use to 5 4,000 gallon trucks a day over 6 months of the year for a total volume of 3.6 million gallons for dust abatement.

- > b) just what do they mean by rock product processing? How is water used
- > (if at all) in the process?

They have a big rock crusher at the site and they will use water in the rock crusher to wash the gravel clean of dirt while keeping the dust down.

- > 3. The map shows a cistern; is this for storing the groundwater as part of
- > the system? Or is it for other uses?

They were not sure at the time if a cistern would be big enough or if they could just use a pond. After talking to the applicant today he would like to have a small pond as a bulge in the system to have "ready water" that would keep the pump from cycling so often.

- > 4. Do they use a settling pond in any way? If so, what is the area of the
- > pond?

They did not need a settling pond, the only purpose of the pond was to keep a bulge as stated above.

- > 5. Final question: I need to know the name and title of the person who
- > signed this application. It's completed in the individual section, not
- the
- > Organizations section. Rules require that info.

The owner of 4R equipment, Ron Robinson, Jr, signed the application.

>

> Oh, while I've got your attention...something came up in a staff meeting

> yesterday regarding listing volume vs Q on permits. I was thinking that

on

> DGWSA muni and Q muni's I list them as having a max volume and a Q, and

> this works well for them, but what if we put totalizing flow meter

> requirements on these types of uses? This could be a way of ensuring that

> the max volume is not exceeded, even when they are pumping that full Q for

> the short period of time they'd pump. This is just a thought, I figured

> I'd run it by you. I'm in the process of working on Avion's PFO's, and

> that would be a good time to use (or not) the totalizing condition. Could

> you get back with me about that issue soon? I'm not in a big hurry on

> 4R...they're really low on my work list right now.

I have been requesting a flow meter that both totalizes and gives an instantaneous rate (most of them do this anyways). The totalizing is going to be the big one that I care about since they are mitigating for the "lump sum" of water and I care very little about the rate unless it shows up on the permit of cert.

>

> Thanks Jeremy.

> AH

151



Oregon

Theodore R. Kulongoski, Governor

File G-16403

Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

503-986-0900

FAX 503-986-0904

March 27, 2006

Ron Robinson
4-R Equipment
PO Box 5006
Bend, OR 97708

Re: Assignment of Mitigation Credits from Mitigation Project MP-27 (T-9824)

Dear Mr. Robinson:

On March 2, 2006, the Department received notice that you were assigned 13.59 mitigation credits by John Short, Deschutes Irrigation LLC, from Mitigation Credit Project MP-27. The Department has removed these credits from Mr. Short's credit account and created a new account under your name.

The mitigation credits you now hold may be assigned to any person or mitigation bank and may be used to satisfy the mitigation obligation of a ground water permit application(s) and/or an existing ground water right(s) within the General Zone of Impact and/or Middle Deschutes Zone of Impact only of the Deschutes Ground Water Study Area. Mitigation Credits are valid until used to fulfill a mitigation obligation. A ground water user wanting to demonstrate that mitigation credits are being used to satisfy a mitigation obligation needs to submit documentary evidence to the Department showing that mitigation credits have been obtained and assigned to them.

Mitigation credit transactions should be reported to the Water Resources Department. The Department has a Documentary Evidence form, copy enclosed, available for your use or any subsequent mitigation credit holder, to assign the credits to a ground water user. The Department's Documentary Evidence form contains pertinent information needed by the Department to evaluate the use and validity of the mitigation credits.

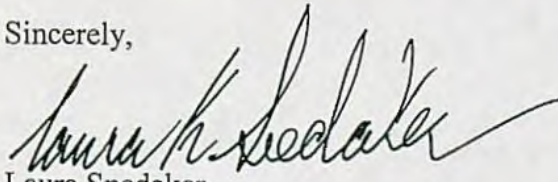
If you decide to assign the mitigation credits to someone other than a ground water user, the Department would like to suggest that you use the Assignment of Mitigation Credits form you may have already begun to assign credits to another party. An additional Assignment of Mitigation Credit form is attached. These assignment forms will help establish a chain-of-custody for the ownership of the mitigation credits. Please provide a copy of the complete assignment record (from original credit holder to current credit holder) and a blank assignment form to any new credit holders so that they may continue the mitigation credit assignment record as well.

Once the mitigation credits are assigned to a ground water user (including for your own ground water permit applications), the ground water user will need to submit documentary evidence that

valid mitigation credits have been obtained to satisfy their mitigation obligation. For credits that have changed hands beyond the original credit holder (such as the credits you now hold), the Department will ask the ground water user to demonstrate that the credits they are intending to use are indeed valid. A complete assignment record (chain of custody) will help demonstrate the validity of the credits being used. I have enclosed an example chain-of-custody and documentary evidence form for your reference. The credits generated by MP-27 when originally awarded were assigned to Central Oregon Irrigation District and Creative Water Solutions, the first credit holders.

If you have any questions regarding the mitigation credits that have been assigned to your ground water permit, your continued mitigation obligation, and/or the additional mitigation credits you now hold, please give me a call at (503) 986-0884.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Snedaker", with a long, sweeping horizontal line extending to the right.

Laura Snedaker

Senior Water Resources Coordinator

c: Jeremy Giffin, Watermaster District 11
 John Short, Deschutes Irrigation LLC
 file T-9824 & MP-27

~~Call date 7/8/11 when indicated~~

OREGON WATER RESOURCES DEPARTMENT
ASSIGNMENT RECORD FOR MITIGATION CREDITS
CHAIN-OF-CUSTODY (Additional Form)

Mitigation Credit Project: MP-27

Mitigation Credits: 1088 (# held by current credit holder)Mitigation Credit Holder: Creative Water Solutions, LLC#20 Mitigation credits have been assigned to (Name): Deschutes Irrigation, LLCMailing Address: P.O. Box 1560 Bend, OR 97709Phone Number: 541-382-5186Jammy Sailors
Current Mitigation Credit Holder Signature10-21-05

Date

[Signature]
New Mitigation Credit Holder Signature10-21-05

Date

Mitigation Credit Holder: Deschutes Irrigation, LLC#13.59 Mitigation credits have been assigned to (Name): 4-R Equipment, LLCMailing Address: P.O. Box 5006, Bend, OR 97708Phone Number: 541-382-8182[Signature]
Current Mitigation Credit Holder Signature3-1-06

Date

Gon Golenok Jr
New Mitigation Credit Holder Signature3-1-06

Date

Mitigation Credit Holder: _____

_____ Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature

Date

New Mitigation Credit Holder Signature

Date



Oregon

Theodore R. Kulongoski, Governor

File G-16403

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

March 27, 2006

Ron Robinson
4-R Equipment
PO Box 5006
Bend, OR 97708

Re: Assignment of Mitigation Credits (Mitigation Credit Project MP-3)

Dear Mr. Robinson:

On March 1, 2006, the Department received notice that you were assigned 6.41 mitigation credits by John Short, Deschutes Irrigation LLC, from Mitigation Credit Project MP-3. The Department has removed these credits from Mr. Short's credit account and created a new account under your name.

The mitigation credits you now hold may be assigned to any person or mitigation bank and may be used to satisfy the mitigation obligation of a ground water permit application(s) and/or an existing ground water right(s) within the General Zone of Impact only of the Deschutes Ground Water Study Area. Mitigation Credits are valid until used to fulfill a mitigation obligation. A ground water user wanting to demonstrate that mitigation credits are being used to satisfy a mitigation obligation needs to submit documentary evidence to the Department showing that mitigation credits have been obtained and assigned to them.

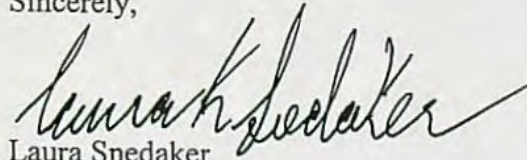
Mitigation credit transactions should be reported to the Water Resources Department. The Department has a Documentary Evidence form, copy enclosed, available for your use or any subsequent mitigation credit holder, to assign the credits to a ground water user. The Department's Documentary Evidence form contains pertinent information needed by the Department to evaluate the use and validity of the mitigation credits.

If you decide to assign the mitigation credits to someone other than a ground water user, the Department would like to suggest that you use the Assignment of Mitigation Credits form you have already begun to assign credits to another party. An additional Assignment of Mitigation Credit form is attached. These assignment forms will help establish a chain-of-custody for the ownership of the mitigation credits. Please provide a copy of the complete assignment record and a blank assignment form to any new credit holders so that they may continue the mitigation credit assignment record as well. The complete assignment record (from original credit holder to you) is required to be submitted with the documentary evidence form demonstrating assignment of the credits to a ground water permit holder and/or applicant.

Once the mitigation credits are assigned to a ground water user (including for your own ground water permit applications), the ground water user will need to submit documentary evidence that valid mitigation credits have been obtained to satisfy their mitigation obligation. For credits that have changed hands beyond the original credit holder, the Department will ask the ground water user to demonstrate that the credits they are intending to use are indeed valid. A complete assignment record will help demonstrate the validity of the credits being used.

If you have any questions regarding the mitigation credits that you have been assigned, please give me a call at (503) 986-0884.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Snedaker", written in a cursive style.

Laura Snedaker
Senior Water Resources Coordinator

c: Jeremy Giffin, Watermaster District 11
 John Short, Deschutes Irrigation LLC
 file T-9360 & MP-3

OREGON WATER RESOURCES DEPARTMENT
ASSIGNMENT RECORD FOR MITIGATION CREDITS
CHAIN-OF-CUSTODY (Additional Form)

Mitigation Credit Project: MP-3 Mitigation Credits: 6.41 (# held by current credit holder)

Mitigation Credit Holder: Deschutes Irrigation, LLC

6.41 Mitigation credits have been assigned to (Name): 4-R Equipment, LLC

Mailing Address: P.O. Box 5006, Bend, OR 97708

Phone Number: 541-382-8182

[Signature]
Current Mitigation Credit Holder Signature

3-1-06
Date

[Signature]
New Mitigation Credit Holder Signature

3-1-06
Date

Mitigation Credit Holder: _____

_____ Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature

Date

New Mitigation Credit Holder Signature

Date

Mitigation Credit Holder: _____

_____ Mitigation credits have been assigned to (Name): _____

Mailing Address: _____

Phone Number: _____

Current Mitigation Credit Holder Signature

Date

New Mitigation Credit Holder Signature

Date

Analysis for Application: G16403**Location: 19S-15E-30-SESW**

Uses: IM P

Basins

BASIN_NUM	BASIN_NAME
5	Deschutes

Records Found: 1

WaterMaster Districts

OBJECTID	DISTRICT_N	REGION	WATERMASTE	ADDRESS	CITY	ZIP_CODE	VOICE	EXTENSION	FAX	SHAPE_AREA	SHAPE_LEN
18	11	SC	Jeremy Giffin	1128 NW Harriman St.	Bend	97701	541-388-6669		541-388-5101	239079534318	3288550.83844

Records Found: 1

WAB

GAGE	BASIN	LINK1	LINK2
30530501	5	Water Availability: 50% 80%	Peak Flow Analysis

Records Found: 1

County

COUNTY	FIPS
Deschutes	41017

Records Found: 1

Groundwater Restricted Records Found: 0**Divison 33 Area** Records Found: 0**Rule 4D** Records Found: 0**303D Streams** Records Found: 0**303D Lakes** Records Found: 0**Location: 19S-15E-30-SWSW**

Uses: IM P

Basins

BASIN_NUM	BASIN_NAME
5	Deschutes

Records Found: 1

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GAGE	BASIN	LINK1	LINK2
30530501	5	Water Availability: 50% 80%	Peak Flow Analysis

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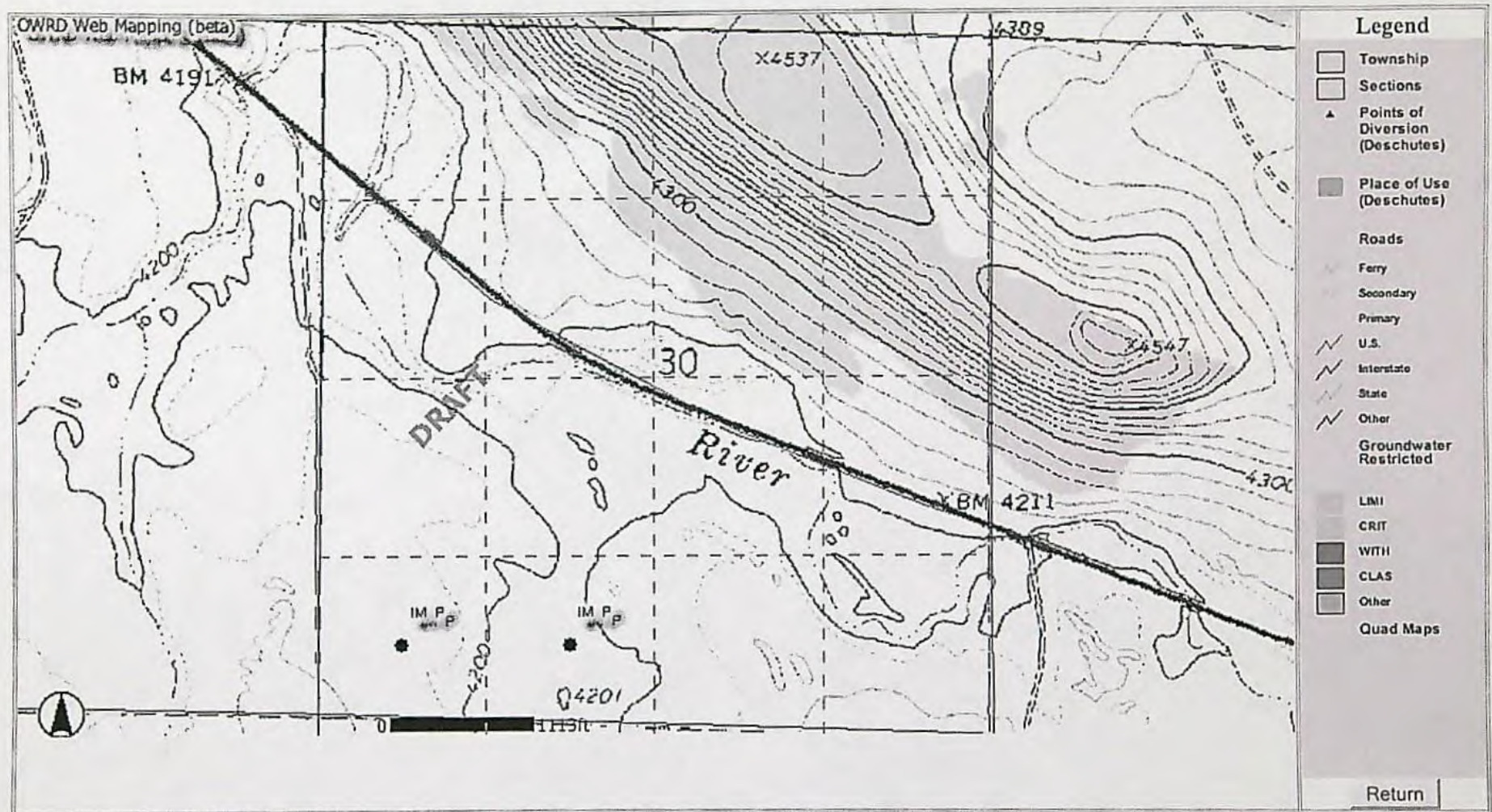
County

COUNTY	FIPS
Deschutes	41017

Records Found: 1

Groundwater Restricted Records Found: 0Divison 33 Area Records Found: 0Rule 4D Records Found: 0303D Streams Records Found: 0303D Lakes Records Found: 0

g16403



Platcard Report

Township 19S Range 15E Section 30

					NE				NW				SW				SE					
	App# Priority	Permit/ Certificate	Claim/ Decree	Status dlc/lot	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	NE	NW	SW	SE	Govt Lot	DLC
1	G16403 03/07/2005	<i>Spencer</i>	<i>164</i>												IM	IM						

Page:1

[Return to Platcard Query Screen](#)

Run Time: 0 seconds

NEW APPLICATIONS (GROUND WATER, RESERVOIR, & SURFACE) ROUTE SLIP

RECEIPTING

POST CARD SENT

DATA CENTER

☒ 3-8-05 LA
~~MAILED~~ 8, 2005 JHM
☒

GROUND WATER YES ☒ NO ☐

ENFORCEMENT YES ☐ NO ☐

WATER RIGHTS SUPPORT ☐

ANITA HUFFMAN 503-986-0815 ☐

CORY ENGEL 503-986-0813 ☐

JERRY GAINES 503-986-0812 ☒

KERRY LEFEVER 503-986-0816 ☐

JEANA EASTMAN 503-986-0859 ☐

A "Standard Reservoir" storing 9.2 acre-feet or more of
Water & has a dam height of 10.0 feet or greater needs to
have a copy of the application & supplemental forms routed to "JOHN FALK"

GW
Files

ATTN: WATER RIGHTS
SUPPORT....>>>>> Mark contents of Application File;
Update Powerbuilder with caseworker, etc.;
Route to filing cabinet.

S & R
Files

Accepted

Standard Application "Completeness" Checklist

Minimum Requirements (OAR 690-310-040)

Application G-16403

Priority Date: 3-7-2005

Use(s): WATER
DUST ABATEMENT

Rate: ONE CFS

County: Deschutes

Township: 19 S

Range: 15 E

Section: 30

POA ¼ ¼: SE SW

POU ¼ ¼: SE SW (+) SW SW

- ☒ Applicant/Organization Name, Mailing Address and Telephone Number. If applicant is other than a private landowner, Organizations section must be completed.
- ☒ Source listed
- ☒ Property ownership indicated? If applicant does not own all the land, is the affected landowner's name and mailing address listed? (Including: Lands, not owned by applicant, upon which the source is locatedor..... any Lands, not owned by applicant, which are crossed by the diversion works.) **NOTE: An easement or agreement DOES NOT need to be submitted at this time, however a statement declaring the existence of written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work is required at this time. Easement or agreement will be required before a permit will be issued.**
- ☒ If a groundwater application...is the groundwater development section completed, including copies of well logs?
- ☒ Proposed Use of the water.... Is each proposed use identified?
- ☒ Has the appropriate "Supplemental Form" for each proposed use been completed, if applicable?
 - ☒ Form I (Irrigation) BOTH
 - ☐ Form M (Municipal or Quasi-Municipal)
 - ☐ Form R (Mining)
 - ☒ Form Q (Commercial or Industrial)
 - ☐ Spring Description Sheet (if source is a Spring)
- ☒ Amount of water from each source listed in GPM, CFS or AF?
- ☒ Acreage being proposed, if applicable.

- ☒ Season being requested by applicant.
- ☒ Water management section has been completed? If system has not been designed, the applicant may estimate this information.
- ☒ Resource protection system completed on Surface Water application?
- ☒ Are the dates of construction indicated? Proposed dates for the Beginning of construction, completion of construction, and complete application of water to the proposed use(s) If system already completed, applicant should indicate existing. Applicant may indicate in other than dates, these timelines.
- ☒ Is the application signed in ink by the applicant? If the application is in the name of an organization or corporation, the authorized agent with title or authority, must sign the application. If more than one applicant named, both/all must sign or application is incomplete.
- ☒ Legal description included? A copy of the deed, land sales contract or title insurance policy can provide this information. We cannot accept a copy of the tax bill.
- ☒ A completed Land-Use Form or receipt signed by the appropriate planning department officials enclosed? Does the use on land-use form match the proposed use on the application? Date should be within 6 months.
- ☒ Does the map meet map requirements of OAR 690-310-050?

- | | |
|--|--|
| ☐ Town, Range, Sec, 1/4 1/4 and Tax Lot # | ☐ Scale of the Map, not less than 4" = 1 mile |
| ☐ Reference corner on map | ☐ North Directional Symbol (not fatal if omitted) |
| ☐ 1/4 1/4's clearly identified | ☐ Location of each diversion point, well or dam |
| ☐ POU clearly identified
location of place of use where water is to be used. ie: domestic, industrial stock, irr, etc. | ☐ Location Coordinates for each POD
by reference to a recognized public land survey corner |
| | ☐ Number of acres per 1/4 1/4, if Irrigation |

☐ Other

☒ fees enclosed? Yes

Total Paid \$ 500

Total Amount of
Water Requested: _____

Base Fee\$ _____

plus\$ _____

plus\$ _____

Total Exam Fee \$ _____

Total Exam Fee \$ 500

Recording Fee \$ XXXX

Completeness Check by: HJM

Date: MAR 7, 2005

503-986-0804

RETURNED

Completeness Check by: HERB

Date: 2-25-2005

MAEUDORA\ATTACH\COMPLETENESSCHECKLIST04_feedback.wpd 6/15/2004

4 R EQUIPMENT
ATTN: RON ROBINSON JR.
PO BOX 5006
BEND

☐ Applicant/Organization Name, Mailing Address and Telephone Number. If applicant is other than a private landowner, "Organizations" section must be completed.

☐ Source listed?

☐ Property ownership indicated?

☐ If applicant does not own all the land, is the affected landowner's name and mailing address listed?

☐ If applicant does not own all the land, a statement declaring the existence of written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work is required.

☒ If a groundwater application...is the "Groundwater Development" section completed, including copies of well logs? PLEASE COMPLETE PAGE 3
REVIEW WELL LOGS & RETURN WITH
YOUR REPAIRED APPLICATION

☐ Proposed Use of the water....is each proposed use identified?

☒ YES Has the appropriate "Supplemental Form" for each proposed use been completed, if applicable?

☐ Form I (Irrigation)

☐ Form M (Municipal or Quasi-Municipal)

☐ Form R (Mining)

☐ Form Q (Commercial or Industrial)

☐ Spring Description Sheet (if source is a Spring)

☐ If use is supplemental...is the primary water right listed?

☐ Amount of water from each source listed in GPM, CFS or AF? OK

☐ Acreage being proposed, if applicable. OK

☐ Season being requested by applicant.

☐ Water management section has been completed? If system has not been designed, the applicant

RECEIVED

MAR 07 2005

WATER RESOURCES DEPT
SALEM, OREGON

may estimate this information.

~~○ If a surface water application... is the "Resource Protection" section completed?~~

~~○ Unless the reservoir application is storing less than 9.2 AF or has a dam height of less than 10 feet, preliminary plans and specifications for dam and impoundment area are required.~~

~~○ If the above is yes, the map must be prepared by CWRE.~~

☒ Project schedule indicated? If system is already completed, applicant should indicate "existing". Applicant may indicate in other than dates, these time lines. **PAGE 5 MUST BE COMPLETED**

○ Is the application signed in ink by the applicant(s) or by the authorized agent with title or authority if an organization or corporation?

☒ Legal description of the property water is to be diverted, any property crossed by a proposed ditch, canal, or other work, and any property the water is to be used on, as depicted on the map? A copy of the deed, land sales contract or title insurance policy can provide this information. We cannot accept a copy of the tax bill. **INCLUDE ONE OF THESE THREE**

☒ A completed Land Use Form or receipt signed and dated by the appropriate planning department officials enclosed? Date should be within 6 months. **@ COUNTY PLANNING DEPT.**

○ Does the map meet requirements of OAR 690-310-0050? If map is larger than 11 x 17, four copies must be submitted.

○ Township, Range, Section

○ Location of each diversion point, well or dam

○ Reference corner on map

○ Each POD coordinate by reference to a recognized public land survey corner

○ Scale of the Map, not less than 4" = 1 mile

○ North Directional Symbol (not fatal if omitted)

○ POU ¼ ¼'s, tax lot clearly identified

○ Location of main canals, ditches, pipelines or flumes

○ Number of acres per ¼ ¼, if IR, NU, or AG

○ Fees enclosed? **YES**

Base Fee

Water Amount

\$100 / \$150

1st CFS/AF

\$250 / \$300

_____ Addl @ _____ + _____

_____ + _____ = _____ total exam fee

EXAM FEE REQUIRED

500

RECORDING FEE REQUIRED

\$175 / \$250

EXAM FEE PAID

RECORDING FEE PAID

LATER

STILL OWED

STILL OWED

RETURNED

Standard Application "Completeness" Checklist

Minimum Requirements (OAR 690-310-040)

Application _____

County: _____

Priority Date: _____

Township: _____

Use(s): _____

Range: _____

Section: _____

POD ¼ ¼: _____

Rate: _____

POU ¼ ¼: _____

☐ Applicant/Organization Name, Mailing Address and Telephone Number. If applicant is other than a private landowner, Organizations section must be completed.

☐ Source listed

☐ Property ownership indicated? If applicant does not own all the land, is the affected landowner's name and mailing address listed? (Including: Lands, not owned by applicant, upon which the source is locatedor..... any Lands, not owned by applicant, which are crossed by the diversion works.) **NOTE:** An easement or agreement DOES NOT need to be submitted at this time, however a statement declaring the existence of written authorization or an easement permitting access to land crossed by the proposed ditch canal or other work is required at this time. Easement or agreement will be required before a permit will be issued.

☒ If a groundwater application...is the groundwater development section completed, including copies of well logs? **PAGE 3 MUST BE COMPLETED**

REVIEW THE WELL LOGS & PLEASE RETURN WITH YOUR REPAIRED APPLICATION

☐ Proposed Use of the water.... Is each proposed use identified?

☐ Has the appropriate "Supplemental Form" for each proposed use been completed, if applicable?

YES

☐ Form I (Irrigation)

☐ Form M (Municipal or Quasi-Municipal)

☐ Form R (Mining)

☐ Form Q (Commercial or Industrial) **OK**

☐ Spring Description Sheet (if source is a Spring)

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MAR 07 2005

**WATER RESOURCES DEPT
SALEM, OREGON**

☒ Amount of water from each source listed in GPM, CFS or AF? **OK**

1 CFS

☒ Acreage being proposed, if applicable. **OK**

15 ACRES

☐ Season being requested by applicant.

☐ Water management section has been completed? If system has not been designed, the applicant may estimate this information.

☐ Resource protection system completed on Surface Water application?

☒ ~~NO~~ Are the dates of construction indicated? Proposed dates for the Beginning of construction, completion of construction, and complete application of water to the proposed use(s) If system already completed, applicant should indicate existing. Applicant may indicate in other than dates, these timelines. **PAGE 5 MUST BE COMPLETED**

☐ Is the application signed in ink by the applicant? If the application is in the name of an organization or corporation, the authorized agent with title or authority, must sign the application. If more than one applicant named, both/all must sign or application is incomplete.

☒ ~~NO~~ Legal description included? A copy of the deed, land sales contract or title insurance policy can provide this information. We cannot accept a copy of the tax bill. **ONE OF THESE THREE MUST BE INCLUDED.**

☒ ~~NO~~ A completed Land-Use Form or receipt signed by the appropriate planning department officials enclosed? Does the use on land-use form match the proposed use on the application? Date should be within 6 months. **MUST BE SIGNED @ COUNTY PLANNING DEPT.**

☐ Does the map meet map requirements of OAR 690-310-050?

☐ Town, Range, Sec, $\frac{1}{4}$ $\frac{1}{4}$ and Tax Lot #

☐ Scale of the Map, not less than 4" = 1 mile

☐ Reference corner on map

☐ North Directional Symbol (not fatal if omitted)

☐ $\frac{1}{4}$ $\frac{1}{4}$'s clearly identified

☐ Location of each diversion point, well or dam

☐ POU clearly identified
location of place of use where water is to be used. ie: domestic, industrial stock, irr, etc.

☐ Location Coordinates for each POD
by reference to a recognized public land survey corner

☐ Number of acres per $\frac{1}{4}$ $\frac{1}{4}$, if Irrigation

☐ Other

☐ fees enclosed? **YES**

Base Fee\$ _____

Total Paid \$ **500**

plus\$ _____

Total Amount of
Water Requested: _____

plus\$ _____

Total Exam Fee \$ _____

Total Exam Fee \$ **500**

Recording Fee \$ **250**
LATER

Completeness Check by: **HERB** **503-986-0804** Date: **2-25-2005**

S:\group\swr\WRIG DOCUMENTS\application related\COMPLETENESSCHECKLIST04.wpd

Oregon Water
Water Right

6-16403 - 7-6-07
Permit, when issued, needs
to include annual volume
limit of 6AF.

ation
16403

Prior to the issuance of the
permit recording application number
Resources Department
2007, issuance

Laura S.
x 60884

your

Proposed Final Order

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

Application History

On March 7, 2005, 4-R Equipment, submitted an application to the Department for the following water use permit:

- Amount of Water: 1.0 CUBIC FOOT PER SECOND (CFS)
- Use of Water: INDUSTRIAL USES (GRAVEL MINING)
- Source of Water: A WELL IN DRY RIVER BASIN
- Area of Proposed Use: DESCHUTES COUNTY within SECTION 30, TOWNSHIP 19 SOUTH, RANGE 15 EAST, W.M.

On February 9, 2007, the Department mailed the applicant notice of its Initial Review, determining that "The use of 1.0 CUBIC FOOT PER SECOND of water from WELL 1 IN DRY RIVER BASIN for INDUSTRIAL USES (GRAVEL MINING) is not allowable, and it appears unlikely that you will be issued a permit. However, by providing mitigation that meets the requirements of OAR 690-505-0610, the use may be approved." The applicant did not notify the Department to stop processing the application within 14 days of that date.

On February 13, 2007, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16403

Prior to the issuance of a permit, the Department must receive permit recording fees in the amount of \$350.00. Please include your application number on your check made out to the Oregon Water Resources Department. If this fee is not paid prior to July 20, 2007, issuance of a permit may be delayed.

Proposed Final Order

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

Application History

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On February 13, 2007, the Department gave public notice of the application in its weekly notice. The public notice included a request for comments, and information for interested persons about both obtaining future notices and a copy of the proposed final order.

No written comments were received within 30 days.

The February 9, 2007 Initial Review included the Notice of Mitigation Obligation for the proposed groundwater use pursuant to the Deschutes Ground Water Mitigation Rules. The applicant proposed to obtain 4.2 Mitigation Credits within the General Zone of Impact from Mitigation Project MP-27.

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

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

Findings of Fact

The Deschutes Basin Program allows the use of groundwater for industrial use (gravel mining).

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

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

Senior water rights exist on Well 1 in the Deschutes River basin, or on downstream waters.

The proposed ground water use is located within the Deschutes Ground Water Study Area and is subject to the Deschutes Ground Water Mitigation Rules, OAR Chapter 690, Division 505.

The Department has determined the proposed use will have the potential for substantial interference with the Deschutes River (OAR 690-09). The Department also finds that, without the required mitigation, there is a preponderance of evidence that the proposed use will measurably reduce surface water flows necessary for the Deschutes River Scenic Waterway ORS 390.835(9).

Pursuant to ORS 390.835(9), the proposed use shall be denied unless the applicant provides mitigation. The Department has determined that the applicant must mitigate for the proposed ground water use pursuant to the Deschutes Groundwater Mitigation Rules, OAR Chapter 690, Division 505.

The Department has determined the mitigation obligation for the proposed use of groundwater for industrial uses year round is 4.2 acre-feet. The mitigation obligation represents the Department's determination of consumptive use of the proposed groundwater use. OAR 690-505-0610(5). The mitigation was calculated on the following uses:

USE	Quantity	ANNUAL VOLUME	MITIGATION FACTOR	MITIGATION OBLIGATION
Dust Abatement	46.0 GPM	1.0 AF	1.0	1.0 AF
Gravel Washing	400.0 GPM	5.0 AF	0.10	0.50 AF
Storage/ evaporation	1.0 acre surface area	n/a	2.67	2.67 AF

To satisfy the mitigation obligation, the applicant must also provide mitigation water in the zone of impact identified by the Department. The proposed use for this application is located within the General Zone of Impact, defined as anywhere in the Deschutes River Basin above river mile the Madras gage, which is located below Lake Billy Chinook. OAR 690-505-0610(5).

A permit may not be issued unless the mitigation obligation of the proposed ground water use, as identified by the Department, is satisfied.

The applicant has proposed to obtain 4.2 mitigation credits within the General Zone of Impact from mitigation project MP-27, which is a permanent instream transfer. Each mitigation credit is equivalent to 1.0 acre-foot of mitigation water.

Following submission of the applicant's mitigation proposal, the Department requested comments on the application and proposed mitigation from Oregon Department of Fish and Wildlife, Department of Environmental Quality, Department of State Lands, Department of Parks and Recreation, and Department of Agriculture pursuant to the Deschutes Ground Water Mitigation Rules. No significant comments relating to the mitigation obligation were received.

The Department finds that the mitigation proposed by the applicant will satisfy the mitigation required under OAR Chapter 690, Division 505; therefore, pursuant to OAR 690-505-0630, the proposed ground water appropriation is deemed to be a ground water appropriation that does not

have the potential for substantial interference with surface water. As required by the Deschutes Ground Water Mitigation Rules, any Final Order issued approving the proposed use, and any subsequent permit will include the following conditions (690-505-0620(1)):

Mitigation Obligation: 4.2 acre-feet annually in the General Zone of Impact, located in the Deschutes River Basin above the Madras gage, which is located below Lake Billy Chinook.

Mitigation Source: 4.2 Mitigation Credits originating from Mitigation Project MP-#27, a permanent instream transfer that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each well. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee, the use of water under this right is subject to the terms and conditions of a valid contract, or a satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

The next step in the permit application process under OAR 690-310 is the Final Order. The applicant has provided the Department with documentary evidence that the qualifying credits have been obtained.

Conclusions of Law

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

The proposed use requested in this application is allowed in the Deschutes Basin Plan.

The mitigation proposed by the applicants will satisfy the mitigation required under OAR 690-505. Therefore, notwithstanding OAR 690-09:

groundwater is available for the proposed use;

the proposed use will not measurably reduce surface water flows necessary for the Deschutes River Scenic Waterway;

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

The applicant shall provide mitigation pursuant to the Scenic Water Way Act, ORS 390.835(9)(d)(A) and (10).

The proposed use will not injure other water rights.

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

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

For these reasons, the required presumption has been established.

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

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

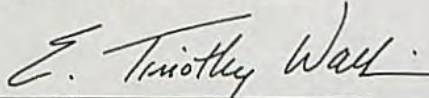
In this application, all criteria for establishing the presumption have been satisfied, as noted above. The presumption has not been overcome by a preponderance of evidence that the proposed use would impair or be detrimental to the public interest.

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

Recommendation

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

DATED June 5, 2007

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

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

Protests

Under the provisions of ORS 537.153(7) (for surface water) or ORS 537.621(8) (for ground water), you can protest this proposed final order. Protests must be received in the Water Resources Department no later than July 20, 2007. Protests must be in writing, and must include the following:

The Protest Fee is \$250.00 if
received prior to July 1, 2007.

Application G-16403

- Your name, address, and telephone number;
- A description of your interest in the proposed final order, and, if you claim to represent the public interest, a precise statement of the public interest represented;
- A detailed description of how the action proposed in this proposed final order would impair or be detrimental to your interest;
- A detailed description of how the proposed final order is in error or deficient, and how to correct the alleged error or deficiency;
- Any citation of legal authority to support your protest, if known; and
- If you are not the applicant, the protest fee of \$350 required by ORS 536.050 and proof of service of the protest upon the applicant.
- If you are the applicant, a statement of whether or not you are requesting a contested case hearing. If you do not request a hearing, the Department will presume that you do not wish to contest the findings of the proposed final order.
- *If you do not protest this Proposed Final Order and if no substantive changes are made in the final order, you will not have an opportunity for judicial review, protest or appeal of the final order when it is issued.*

Requests for Standing

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

Requests for standing must be received in the Water Resources Department no later than July 20, 2007. Requests for standing must be in writing, and must include the following:

- The requester's name, mailing address and telephone number;
- If the requester is representing a group, association or other organization, the name, address and telephone number of the represented group;

- A statement that the requester supports the proposed final order as issued;
- A detailed statement of how the requester would be harmed if the proposed final order is modified; and
- A standing fee of \$100.00. If a hearing is scheduled, an additional fee of \$250.00 must be submitted along with a request for intervention.

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

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

This document was prepared by Anita Huffman. If you have any questions about any of the statements contained in this document, I am most likely the best person to answer your questions. You can reach me at 503-986-0815.

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

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

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

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF DESCHUTES

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

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

APPLICATION FILE NUMBER: G-16403

SOURCE OF WATER: WELL 1 IN DRY RIVER BASIN

PURPOSE OR USE: INDUSTRIAL USES (GRAVEL MINING)

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 7, 2005

WELL LOCATION: SE $\frac{1}{4}$ SW $\frac{1}{4}$ SECTION 30, T19S, R15E, W.M.; 600 FEET NORTH &
1400 FEET EAST FROM SW CORNER, SECTION 30

THE PLACE OF USE IS LOCATED AS FOLLOWS:

SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 30
TOWNSHIP 19 SOUTH, RANGE 15 EAST, W.M.

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each well. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced. However, the use of groundwater allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation is maintained.

GROUND WATER MITIGATION CONDITIONS

Mitigation Obligation: 4.2 acre-feet annually in the General Zone of Impact, located in the Deschutes River Basin above the Madras gage, which is located below Lake Billy Chinook.

Mitigation Source: 4.2 Mitigation Credits originating from Mitigation Project MP-#27, which is a permanent instream transfer that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s), will occur if the required mitigation is not maintained.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

STANDARD CONDITIONS

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

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

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

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

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

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

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

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

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

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

Issued _____, 2007

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

RECEIVED

MAR 07 2005

WATER RESOURCES DEPT
SALEM, OREGON

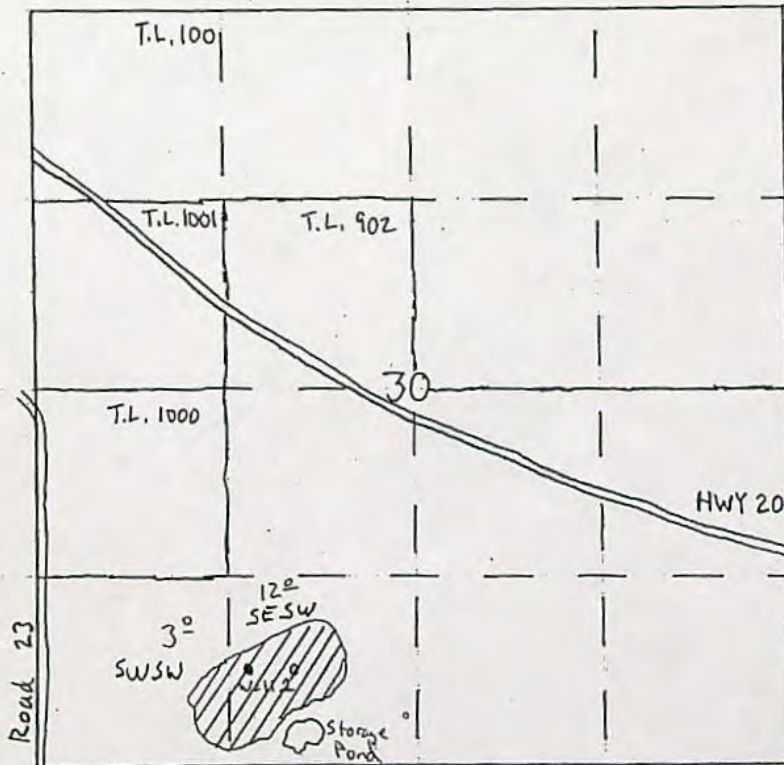
GROUNDWATER APPLICATION FOR
JACK ROBINSON & SONS

TOWNSHIP 19 SOUTH RANGE 15 EAST
SECTION 30

RECEIVED

FEB 24 2005

WATER RESOURCES DEPT
SALEM, OREGON



SCALE: 1" = 1320'

Well #1 = 1400' East & 600' North of the SW 1/4 of Section 30,
Township 19 South Range 15 East, W.M.

▨ = Industrial P.O.U.

app # G 16403

Mailing List for PFO Copies

Application #G-16403

PFO Date June 5, 2007

Original mailed to:

Applicant: RON ROBINSON, 4-R EQUIPMENT, PO BOX 5006, BEND, OR 97708_____

Copies sent to:

1. WRD - File # G-16403
2. Water Availability: Ken Stahr
3. WRD - Laura Snedaker

Copies Mailed
By: <u>OS</u>
(SUPPORT STAFF)
on: <u>10/15/07</u>
(DATE)

PFO and Map Copies sent to:

(NOTE: please send only one copy per office, even if there is more than one name on the list)

5. WRD - Watermaster # 11
6. ODFW District Biologist: Steve Marx & Clair Kunkle
7. ODFW-Rick Kepler
8. Columbia River Intertribal Fish Commission
9. US Fish & Wildlife
10. NW Power Planning Council
11. DEQ- Eric Nigg, Eastern Region
12. DOA- Salem: Jim Johnson & Paul Measeles
13. State Parks-Jan Houck & Dave Wright
14. Department of State Lands-Nancy Pustis (Bend)

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

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

CASEWORKER : huffmaam



Oregon

Theodore R. Kulongoski, Governor

RECEIVED

MAY 21 2007

WATER RESOURCES DEPT
SALEM, OREGON

Water Resources Department
725 Summer Street NE, Suite
Salem, OR 97301-127
503-986-09C
FAX 503-986-09C

DESCHUTES BASIN MITIGATION CREDIT DOCUMENTARY EVIDENCE FORM

This form is to be completed when mitigation credits are obtained from a mitigation credit holder, other than a mitigation bank, by a ground water application/permit/certificate holder to satisfy a mitigation obligation under the Deschutes Ground Water Mitigation rules. Please print in ink or type all information. If there are any questions about this form, please contact the Department.
Phone: (503) 986-0884

Ground Water User Information:

Name: Ron Robinson

Mailing Address (Street, City, State, Zip): P.O. Box 5006 Bend, OR 97708

Phone Number (Home and Work-including area code): (541) 382-8182 E-Mail (optional): _____

Ground Water Application, Permit, or Certificate #: G-16403

Mitigation Obligation (amount) (see Notice of Mitigation Obligation or Initial Review for this information): 4.2

Zone of Impact (see Notice of Mitigation Obligation or Initial Review for this information): General

Mitigation Credit Holder Information:

Mitigation Credit Holder Name: Ron Robinson

Mailing Address: P.O. Box 5006 Bend, OR 97708

Phone Number (including area code): (541) 382-8182 E-Mail (optional): _____

If mitigation credits have changed hands beyond the original credit holder, a complete assignment record should be included with this documentary evidence form to help demonstrate that the credits are valid. This information may be obtained from the mitigation credit holder.

Mitigation Credit Information:

In the following table, identify the mitigation project identification number(s), the number of credits assigned from each mitigation project, the zone of impact in which the credits are to be used (note - many credits may be used within more than one zone of impact) and the type of mitigation project upon which the credits are based.

Project Type Codes: Allocation of Conserved Water = ACW Permanent Instream Transfers = PT Storage Release = SR
Aquifer Recharge = AR Other = Other (if other, please describe under project type in space provided below)

Mitigation Project ID	# Mitigation Credits Assigned	Zone of Impact	Mitigation Project Type Code (see above)
MP- 27	4.2	General	PT

Add additional mitigation projects and credits, using above format, by attaching additional pages if necessary.

Mitigation Project Operator (if other than original credit holder): _____ (for example, name of storage project or aquifer recharge project operator)

Mailing Address: _____

Phone Number (including area code): _____

For Stored Water Releases (if applicable):

Name of Reservoir: _____

Reservoir Permit/Certificate: _____

Contract Number(s): _____

The above described mitigation credits have been transferred from Ron Robinson, mitigation credit holder, to Ron Robinson, ground water application/permit/certificate holder.

Ron Robinson
Mitigation Credit Holder Signature

Date

5-14-07

Ron Robinson
Ground Water Application/Permit/Certificate Holder Signature

Date

5-14-07



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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

April 25, 2007

RON ROBINSON
4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

REFERENCE FILES: ¹⁶⁴⁰³G-~~14903~~, G-16519, G-16642

Dear Mr. Robinson:

I am in the process of issuing proposed final orders for your applications noted above. As I review these files, I've determined that you have purchased a total of 20.0 mitigation credits originating with mitigation projects MP-3 and MP-27. Both projects have credits available in the General Zone of Impact, which is the zone identified for all 3 of your applications.

I need to know how the credits will be divided up between the applications, and I will need you to submit Documentary Evidence that the credits have been assigned to each application. In addition, you'll need to submit a chain of custody form for the purchase of the credits.

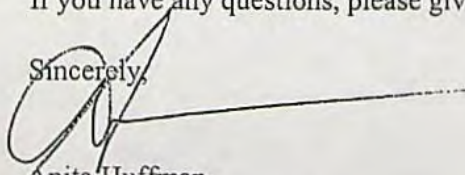
MP-27 provided you with 13.59 credits, and MP-3 provided 6.41 credits. Application G-16403 requires 4.2 credits; G-16519 requires 8.4 credits; and G-16642 requires 7.4 credits. You may divide up the credits from each project in any way you wish, but I've devised a simple calculation:

Application	Mitigation credits needed	Mitigation Project	Credits provided
G-16403	4.2	MP-27	4.2
G-16519	8.4	MP-27	8.4
G-16642	7.4	MP-27	0.99
G-16642	7.4	MP-3	6.41

I'm enclosing 3 documentary evidence forms, and two chain of custody forms. Please complete the forms, and send them back to my attention. Once I've received the forms, I can move forward with your Proposed Final Orders.

If you have any questions, please give me a call at 503-986-0815.

Sincerely,



Anita Huffman
Water Rights Caseworker

cc: Watermaster District 11
Robert Lovelien



May 2, 2007

Neil R. Bryant
Robert S. Lovlien
Lynn F. Jarvis
John A. Berge
Sharon R. Smith
John D. Sorlie
Mark G. Reinecke
Melissa P. Lande
Kitri C. Ford
Paul J. Taylor
Christopher A. Bagley
Jeremy M. Green
Kelly L. Schukart
Kyle D. Wuepper
Helen L. Eastwood

ANITA HUFFMAN
OREGON WATER RESOURCES DEPT.
725 SUMMER ST., NE, SUITE A
SALEM, OR 97301

Re: Walker vs. Deschutes County and 4-R Equipment, LLC
LUBA Case No.: 2007-013

Dear Ms. Huffman:

As per your request, I am enclosing a copy of the Decision of the Deschutes County Board of Commissioners that was issued in the above-captioned matter. Please call me if you have any questions.

Very truly yours,

ROBERT S. LOVLIE

RSL/alk
Encl.
6829-068 104.doc

BEND
591 S.W. Mill View Way
Mail: P.O. Box 1151
Bend, Oregon 97709
Phone: (541) 382-4331
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Le
LEGAL COUNSEL

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DECISION OF THE DESCHUTES COUNTY BOARD OF COMMISSIONERS

FILE NUMBERS: PA-04-8, ZC-04-6

APPLICANT/OWNER: 4-R Equipment, LLC
PO Box 5006
Bend, OR 97708

AGENT: Robert S. Lovlien
Bryant Lovlien & Jarvis, P.C.
P.O. Box 1151
Bend, OR 97709

REQUEST: A plan amendment and zone change for 365 acres from
Exclusive Farm Use (EFU-HR) to Surface Mining (SM).

STAFF CONTACT: Paul Blikstad, Associate Planner

I. APPLICABLE CRITERIA:

- A. Title 18 of the Deschutes County Code, the Deschutes County Zoning Ordinance
- B. Title 22 of the DCC, the Development Procedures Ordinance
- C. Title 23 of the DCC, the Deschutes County Comprehensive Plan
- D. OAR 660 Division 23, Procedures and Requirements for Complying with Goal 5
- E. OAR 660-012-0060, Plan and Land Use Regulation Amendments
- F. OAR 660-015, Statewide Planning Goals

II. FINDINGS OF FACT:

The Board adopts the Hearings Officer's Findings of Fact and adds the following.

H. **PROCEDURAL HISTORY:** The Planning Division mailed notice of the public hearing scheduled for January 18, 2005 to property owners within 750 feet of the subject property and published a notice of the proposal in the Bend Bulletin. Hearings were held before the Deschutes County Hearings Officer on January 18, 2005 and on April 20, 2005. On June 1, 2005, the Hearings Officer issued her recommendation. The County Board of Commissioners held a public hearing on August 23, 2005 to consider this request. On November 2, 2005, the Board of Commissioners ordered that the record remain open until November 30, 2005 in

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order to provide an ESEE Analysis for a one-half mile impact area. The Board reopened the record and sent notice of a subsequent public hearing held on December 14, 2005 for public comment on the ESEE Analysis. The hearing was continued from December 14, 2005 to January 25, 2006. The Board announced its decision on March 1, 2006. On June 15, 2006, applicant's legal counsel, Mr. Robert Lovlien, submitted a letter waiving the 180-day period without specifying a time period. On September 8, 2006, the County received written notice from Mr. Lovlien, saying that Mr. Lovlien would be leaving for a two month sabbatical and requesting that the mailing of the Board's written decision be delayed until after Mr. Lovlien returned on November 27, 2006.

III. CONCLUSIONARY FINDINGS:

A. OREGON ADMINISTRATIVE RULES

1. OAR 660-023-0180, Mineral and Aggregate Resources.

(1) *For purposes of this rule, the following definitions apply:*

(a) *"Aggregate resources" are naturally occurring concentrations of stone, rock, sand, gravel, decomposed granite, limestone, pumice, cinders, and other naturally occurring solid materials commonly used in road building or other construction.*

(f) *"Mineral resources" are those materials and substances described in ORS 517.750(7) but excluding materials and substances described as "aggregate resources" under subsection (a) of this section.*

(2) *Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a post acknowledgement plan amendment (PAPA) or at periodic review as specified in OAR 660-023-0180(8). The requirements of this rule modify, supplement, or supercede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:*

(a) *A local government may inventory mineral and aggregate resources throughout its jurisdiction, or in a portion of its jurisdiction. When a local government conducts an inventory of mineral and aggregate sites in all or a portion of its jurisdiction, it shall follow the requirements of OAR 660-023-0030 except as modified by subsection (b) of this section with respect to aggregate sites. When a local government is following the inventory process for a mineral or aggregate resource site under a PAPA, it shall follow the applicable requirements of OAR 660-023-0030, except where those requirements are expanded or superceded for aggregate resources as provided in subsections (b) through (d) of this section and sections (3) (4) and (8) of this rule;*

- (b) *Local governments shall apply the criteria in section (3) or (4) of this rule, whichever is applicable, rather than OAR 660-023-0030(4) in determining whether an aggregate resource is significant;*
- (c) *Local governments shall follow the requirements of section (5) or (6) of this rule, whichever is applicable, in deciding whether to authorize the mining of a significant aggregate resource site, and OAR 660-023-0040 through 660-023-0050 in deciding whether to authorize mining of a significant mineral resource; and*
- (d) *For significant mineral and aggregate sites where mining is allowed, except for aggregate sites that have been determined to be significant under section (4) of this rule, local governments shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses*

FINDING: The Board adopts the Hearings Officers' findings for the above State administrative rule provisions and adds the following:

Based on the burden of proof statement and the associated geotechnical report, the plan amendment and zone change applications submitted are for an aggregate resource rather than a mineral resource, as defined in OAR 660-023-0180(1) above. The proposed resource, according to the applicant's submittal, is a naturally occurring concentration of rock, sand and gravel, commonly used in road building or other construction. Consequently, the proposed applications will be reviewed for significance under OAR 660-023-0180(4) rather than OAR 660-023-0030(4) as required under "b" above. Additionally, the proposed application will be reviewed in deciding whether to authorize mining under OAR 660-023-0180(6) rather than OAR 660-023-0040 through 660-023-0050 as required under "c" above.

- (3) *An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality and location of the resource demonstrates that the site meets any one of the criteria in sections (a) through (c) of this section, except as provided in subsection (d) of this section;*
 - (a) *A representative set of samples of aggregate material in the deposit on the site meets Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;*

FINDING: The Board adopts the Hearings Officer's findings for these criteria and adds that the Siemens report also addresses the potential for sale of lightweight fill. The report states that: "laboratory testing indicates that the entire body of basalt rock (over 17 million cubic yards) easily exceeds ODOT standards for highway construction aggregate." Thus, the estimated 17 million cubic yards, which converts to approximately 44,200,000 tons, is well beyond the minimum 500,000-ton threshold listed above.

- (b) *The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or*

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- (c) *The aggregate site is on an inventory of significant aggregate sites in an acknowledged plan on the applicable date of this rule.*

FINDING: The Board adopts the Hearings Officer's findings for these criteria.

- (d) *Notwithstanding subsections (a) and (b) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996 had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:*

- (A) *More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on the date of this rule; or*
- (B) *More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil on NRCS maps available on the date of this rule, ...*

FINDING: The Board adopts the Hearings Officer's findings for these criteria and adds that the applicant did not have an existing mining site nor did the applicant have an enforceable property interest in the expansion area on March 1, 1996. Therefore, the Board agrees that subsection (d) is not applicable.

- (4) *Notwithstanding section (3) of this rule, a local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:*

- (a) *The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley; and*

- (b) *Not more than 35 percent of the proposed mining area consists of soil*

- (A) *Classified as Class 1 on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or*

- (B) *Classified as Class 2, or a combination of Class 11 and Class 1 or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule; or*

- (c) *A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.*

FINDING: The Board adopts the Hearings Officer's findings on these criteria except that the Board adds the following. While the proposal meets the criterion in subsection (4)(b), because it does not meet the other leg of the requirement, subsection (a), the proposal does not meet the first set of

criterion for Section (4) to apply. Additionally, because the property is not subject to any pre-April 3, 2003 land use approval for mining, the Board agrees that subsection (4)(c) also does not apply. Therefore, Section (4) in its entirety is not applicable to this proposal.

- (5) *For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) or by the earliest date after 180 days allowed by local charter.*

FINDING: Because the Board found compliance with OAR 660-023-0180(3) above and that this is a significant aggregate site, this section (5) is applicable to this proposal. As for the 180-day deadline, as stated above, the applicant tolled that deadline.

- (a) *The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.*

FINDING: The Staff recommended that, for purposes of this criterion, the impact area coincide with the surface mining impact area (SMIA.) combining zone, Deschutes County Code ("DCC") 18.56.020. Once a surface mining site is designated, DCC 18.56.020 requires surface mining impact area ("SMIA") combining zone to extend to one-half mile from the boundary of the property. The Hearings Officer, however, recommended a SMIA extending as far as the Pine Mountain Observatory, located six miles away.

The Board understands that the impact area required by the OAR is for determining what effect the mining site will have on surrounding uses and that the SMIA is to prevent surrounding uses from having an effect on the mining site. Therefore, the two impact areas have the opposite purpose. The Board finds, however, that the factual information provided by the applicant and other parties demonstrates that the half-mile distance encompasses all the reasonable impacts that the mining site will have. The Board bases this finding on some of the information in the Hearings Officer's decision and on the applicant's Environmental, Social, Economic and Energy ("ESEE") analysis. The Board's findings are as follows.

There have been some potential conflicts identified beyond the half-mile distance. A review and analysis of these potential conflicts is as follows:

A. Pine Mountain Observatory. The Pine Mountain Observatory is approximately 6.5 miles east of the subject property located on top of Pine Mountain. A potential conflict that was identified was dust emanating from the proposed mining operations. The issue is whether this would be a "significant" potential conflict justifying an expansion of the impact area. The Observatory is a substantial distance from the subject property. There are a number of other activities occurring within the Millican Valley and surrounding Paulina Mountains that currently generate dust. These would include the off-road vehicle trails near Millican, the unpaved dirt roads throughout the Millican Valley,

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as well as in the Paulina Mountains, which are heavily used for recreational and hunting purposes, and dust which naturally occurs in Central Oregon. Dust is most likely to occur during crushing operations on the site. However, there was testimony that the Applicant operates similar crushing sites at its Century Drive pit in Bend, Oregon, which is only 300 yards from the entrance to the Broken Top, which is an upscale, golf, planned unit development. There have been no complaints regarding dust from Applicant's crushing operations. Applicant has also operated a crusher within the city limits of the City of Redmond at the Fireman's Pond. There have been no complaints from the operation of that surface mine. Applicant also operates a mining operation east of Alfalfa on George Millican Road. There have been no complaints of dust emanating from this site. Applicant also operates a crusher at its O'Neil Junction pit outside of Prineville. No complaints with regard to dust have been received. Based upon the distance from the subject property to the Pine Mountain Observatory, the activities that currently existing within the Millican Valley, and evidence of Applicant's other crushing operations in Central Oregon, dust would not be a significant potential conflict for the Pine Mountain Observatory. Therefore, the Board finds that the Pine Mountain Observatory is too far to be considered within the mining site's impact area.

B. Sage Grouse Nesting Site (Lek). The proposed surface mining operation is within 1.25 miles of a sensitive bird and mammal site. This is a sage grouse site (lek), listed as Site No. DE 0999-01 on the County's Wildlife Inventory, located in Section 26 of Township 19 South, Range 14 EWM. However, the mining site is located outside of the sensitive bird and mammal (SBM) combining zone, and does not require SBM review under Chapter 18.90 of Title 18. Since the mining site is outside of the SBM combining zone and the sage grouse site is protected by the SBM combining zone, this site does not represent a significant potential conflict requiring the expansion of the impact area.

C. Evans Wells Ranch. The potential conflicts would include noise, dust, traffic, vibrations, water draw down, visual impacts and quality of life. This site is located over four miles south of the subject property. There will be no traffic generated by the mining site that will go past this Ranch. There is no evidence that the Ranch will be impacted by noise. There is evidence that the proposed mining activities will not affect the valley water supply. See Exhibit "A".

D. ORV Trails. There is a significant network of off road vehicle trails near Millican east of this project. These trails, in and of themselves, create a significant amount of dust, noise and additional traffic in the Millican Valley. Most of these trails lie at least three miles east of the project. There is no evidence that any significant amount of dust will be generated by the mining activities that could in any way effect the use of these ORV trails. There are no ORV trails within one-half mile of the subject property. Based upon the activity itself and the distance from the subject property, the ORV trails do not represent a significant potential conflict which would justify expansion of the impact area.

E. Agricultural Practices. The nearest commercial agricultural activity, except for very limited range grazing, is the Evans Wells Ranch. These limited agricultural practices do occur within one-half mile of the site and will be discussed below.

F. Millican Townsite. Millican is an unincorporated site approximately three miles east of the project. A convenience has operated at this site over the years. There was no testimony from the owner of the Millican store or the property comprised of the unincorporated community of Millican. Based upon the fact that there was no testimony from the owners or lessees of this site, there is nothing to indicate that this creates a significant potential conflict which would justify the expansion of the impact area.

After reviewing all the above uses that are further than a half-mile from the property line, the Board

finds that the impact on quality of life of residences and visitors to the Millican Valley and aesthetic concerns may not be considered because OAR 660-023-0180(5) limits the type of conflicts that may be considered to those listed in that section. *Morse Bros., Inc. vs. Columbia County*, 37 Or. LUBA 85 (1999) *affirmed*, 165 Or. App. 512 (2000). Based upon the location and distance from the site, the Evans Wells Ranch does not indicate that a significant potential conflict exists that would justify expanding the impact area.

Therefore, after the identification of possible and potential conflicts that exist beyond the SMIA boundaries, the Board finds there is no factual information that indicates that these represent "significant potential conflicts" that would justify an expansion of the impact area, otherwise identified with the SMIA combining zone. As discussed below, however, there are significant impacts to uses within that half-mile distance.

- (b) *The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:*
- (A) *Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;*
 - (B) *Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;*
 - (C) *Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments. This paragraph shall not apply after the effective date of commission rules adopted pursuant to Chapter 285, Oregon Laws 1995;*
 - (D) *Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;*
 - (E) *Conflicts with agricultural practices; and*

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- (F) *Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780.*

FINDINGS: This rule requires a determination of existing or approved land uses within the impact area, as described above, that will be adversely effected by the proposed mining operations and to specify the predicted conflicts. "Approved land uses" are defined as dwellings allowed by residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. Furthermore, for the determination of conflicts, the local government is limited to consider only those identified in (A) through (F) of this rule.

The conflicts that have been identified within the impact area, the predicted conflicts, if any, and whether these conflicts should be considered under this rule are as follows:

1. The Walker Residence. The Walker residence is located 2,300 feet from the subject property. The potential conflicts include dust, noise, vibrations, traffic, water draw down and quality of life. The Walker residence would be considered a "approved land use" based upon the issuance of a building permit by Deschutes County.
2. Coyote Well Premises (historic site). The Coyote Well is approximately 1,350 feet from the subject property. The potential conflicts include vibrations and water draw down.
3. Pictographs. Pictographs have been identified on the Walker property and they are located approximately 1,950 feet from the subject property. The potential conflicts would be vibrations and dust.
4. Best Shelter. The Best Shelter has been identified as being approximately 1,775 feet from the property. The potential conflicts would be dust, noise, traffic and vibrations.
5. U.S. Highway 20. U.S. Highway 20 does bisect the property. Potential conflicts include dust and additional traffic.
6. Wildlife Area Combining Zone (antelope). The subject property is within the wildlife area combining zone (antelope). Potential conflicts include the disturbance of the antelope in the area.
7. Agricultural Activities. Within the impact area, the only agricultural practices are dry land grazing.

The following is an analysis of the conflicts with the above uses to be considered pursuant to OAR 660-023-0180(5)(b).

A. Conflicts Due to Noise, Dust or Other Discharges. The Walker residence is the only "approved land use" within the impact area (not including Highway 20, which will be discussed below). There is the potential for conflict due to dust and noise. There is unrefuted evidence that the decibel levels at the Walker residence will not exceed the ambient noise level when the crusher is operating. See Exhibit "D". U.S. Highway 20 already generates significant traffic noise. This noise will only be marginally increased by the additional truck traffic on U.S. Highway 20.

There is no evidence that the Walker residence will be affected by any vibration. A study was done to determine potential vibration intensities at the proposed site by Apollo Geophysics

Corporation. See Exhibit "C". The study collected data from test blasts done on site. They compared these findings with the standard adopted in Europe, which is published maximum recommended vibration intensity values for critical structures (historic cathedrals with national treasures) near blasting operations. The report concluded that the proposed blasting should be well below the European standard for vibration intensities and that the mine should be able to operate well below any potential damaging vibration intensities with the proposed 100 pounds (or below) per delay for the production blasting operations proposed by the Applicant. See Exhibit "C". Arguably, vibrations are not "other discharges" as identified under the rule.

B. Traffic Impacts. A trip generation letter and intersection analysis for the proposed site was prepared by Ferguson & Associates dated June 21, 2004 and updated January 11, 2005. The report concluded as follows:

"The proposed aggregate quarry was forecast to generate between 100 and 150 daily trips and little or no p.m./peak hour traffic. A majority (90%) of the trips generated by the project were distributed west on Highway 20 towards Bend, resulting in a forecast of 68 trips per day in each direction on Highway 20 to the west of the study intersection. The intersection of Highway 20 and Spencer Wells Road operates at an acceptable level of service and volume capacity ratios for the Year 2004. With the proposed project, ODOT mobility standards are met. No operational issues were identified. Guidelines were not met for a left turn onto Highway 20 from Spencer Wells Road." See Exhibit "E".

There were also comments from the Oregon Department of Transportation and the County Road Department stating that they believe the traffic impacts on these two roads from the proposed mining operation would be minimal. The topography in this area is generally level and the site distances do not create a problem for the mining operation.

There was testimony from opponents expressing concerns regarding traffic safety, including interference with safe boarding of school buses where on road shoulders where trucks move to the far right of roads to let faster vehicles pass; impaired visibility because of dust; and conflicts with bicyclists on the road. However, the testimony did not identify whether these impacts, if they occur, violate ordinances or regulations pertaining to "site distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan" such that they may be evaluated pursuant to OAR 660-023-0180(5)(b)(B). Without some connection between the testimony and applicable road development standards, these concerns may not be considered.

C. Bird Attractants' Conflict with Existing Airports. There are no nearby existing airports. Therefore, no conflict exists relating to this consideration.

D. Goal 5 Resources. Testimony was presented during the hearing that identified the location of Coyote Well and Native American pictographs, as well as the possible location of burrowing owl and pygmy rabbit dens. However, neither of these sites or species have been included on the County's Goal 5 Inventory, and no program has been adopted to protect them. Therefore, they may not be considered under OAR 660-023-0180(5)(D).

The property is within a wildlife area combining zone. This area is identified on the County's Comprehensive Plan Map as antelope range. Plans to minimize this Goal 5 resource are discussed below.

E. Agricultural Activities. Staff reviewed in detail the potential conflicts that occur for uses



allowed in the EFU/HR Zone in the Staff Report dated January 6, 2005. The Board concurs with the Staff findings on these potential conflicts and; thus, excerpts from that Staff Report are incorporated herein by reference. See Exhibit "G". Within the impact area itself, the only agricultural uses have been very limited dry land grazing and would not be considered significant.

There was concern expressed about water. The Applicant has applied for a water right permit for a well to be located on the property. There is no evidence that this groundwater right will in any way impact the regional aquifer. It will not have any effect on small aquifers like the one feeding the Coyote Well. See Letter from Oregon Water Resource Dept. of 07/22/05 and E-mail from Marshall Gannit of 08/02/05, Exhibit "A".

- (c) *The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.*

FINDINGS: The property also does lie within a wildlife overlay zone for antelope winter range. Gary Hostick, a certified wildlife biologist with Ecological Services, Inc. has consulted with Steve George, the District Biologist for the Department of Fish & Wildlife. Gary Hostick submitted a proposal concerning mitigation for antelope range, and in particular, winter protection guidelines.

The following mitigation proposal was submitted by Gary Hostick:

"Blasting and crushing will cease during periods of severe winter weather conditions that may force antelope with no alternative winter range into the area adjacent to the rock pit. The Oregon Department of Fish and Wildlife District Biologist (ODFWDB) will monitor severe winter conditions based on snow depth, temperature, and numbers of antelope within 2 miles of the rock pit. ODFWDB will notify the applicant when cessation of crushing and blasting is deemed necessary by the ODFWDB due to antelope winter range conditions. Cessation of blasting and crushing may be necessary within 24 hrs. notice due to the nature of winter storms. The applicant may choose to remove crushing equipment if crushing/blasting cessation is necessary, and this removal will take up to two weeks from the date of notice of cessation." See Exhibit "B".

ODF&W has reviewed this wording and has concluded that these mitigative measures should be sufficient to protect antelope during the winter months.

In consultation with ODF&W, three additional wildlife species were indicated: (a) burrowing owl nest sites; (b) greater sage grouse lek sites; and, (c) pygmy rabbit den sites. Gary Hostick prepared a document entitled "Results of a Survey for Burrowing Owl Nests, Burrow, Pygmy Rabbit Den Burrows and Greater Sage Grouse Leks on the property east of Bend, Oregon." In summary, the report concluded that there was no conclusive evidence of any of the three subject species being found on the project site. There was some possibility that the three burrow group observed in the den burrow complex of a pygmy rabbit.

These three latter animal species have not been identified as being protected under Goal 5.

There is no significant commercial agricultural practice within the impact area or within several thousand feet of the subject property.

The Applicant has also consulted with the Bureau of Land Management and their wildlife biologist, Jan Hanf. This was done in conjunction with Ecological Services, Inc. She expressed some concern about sage grouse in the area. Although, there was no finding of any sage grouse on the subject property, Applicant agreed to restrict the access to the property to one road. Applicant would agree to a program to prevent the introduction of any noxious weeds based on activities in the area.

A typical mining stage area is shown on the conceptual site plan and would be designed to remove approximately 75,000 cubic yards of material at any one time. The first of these mining stages will be located almost 3,000 feet from the part-time residence. The Applicant is proposing a 200-foot setback along Spencer-Wells Road. Access to the site will be an asphalt access road. The only visible features that will be shown would be a stockpile area, a small scale control building, and a well head building. Based on the topography of the property, these will probably not even be visible from the recreational site. Therefore, there are reasonable and practical measures that can be identified to minimize the conflict with this recreational site.

With respect to the winter range for antelope, the Applicant is proposing the winter protection guidelines as set forth above.

ODF&W has reviewed this wording and does not have any suggested modifications.

The report prepared by Gary Hostick does not reveal any conflict with the burrowing owl, the pygmy rabbit or the greater sage grouse.

There is going to be a natural area that will be preserved along U.S. Highway 20 that will be 600 feet in width. There will be a 200-foot setback from Deschutes County Road No. 23 and again, a natural area of between 100 feet to 250 feet along the south and east sides of the property. As identified above, at any one time, there will only be one mining stage open on the property. This means that based on a site of 385 acres, less than 10% of the acreage would be disturbed at any one time.

In further consultation with ODF&W, there were two other concerns. Those concerns were the fencing for the project and reclamation. Fencing of the project would involve wildlife-friendly fencing that would allow an antelope to pass under the fence with as little risk as possible. This can be done with a three-wire, smooth-wire fence with at least 18 inches from the ground to the bottom wire. There would be a maximum of 42 inches from the ground to the top wire.

The reclamation plan will include replanting with native grasses and shrubs. Each year the Applicant would agree to the appropriate treating of any noxious weeds that might invade the site work. The foregoing could be listed as conditions of approval of the site plan.

The Board further adopts by reference the Recommendations of the Hearings Officer contained on Pages 13, 14 and 15 of her Recommendation regarding traffic impacts on identified Goal 5 resources. See Exhibit "F".

Arguably, there are reasonable and practical measures that are identified to minimize all identified conflicts. However, an ESEE analysis of the conflicts that have been identified follows.

- (d) *The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be*

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minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

- (A) The degree of adverse effect on existing land uses within the impact area;*
- (B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and*
- (C) The probable duration of the mining operation and the proposed post-mining use of the site.*

FINDINGS: Conflicts that exist within the impact area would be noise, dust, vibrations and conflicts with uses sensitive to those impacts. There may also be an impact on the quality and quantity of water available for domestic and agricultural activities. However, those conflicts seem to have been addressed by the Oregon Water Resources Department and by the USGS. There is also a conflict in the wildlife overlay combining zone for the antelope. Finally, there are potential conflicts to agricultural uses within the area.

Based upon the identification of these potential conflicts, the issue is determining the ESEE (economic, social, environmental and energy) consequences of either allowing, limiting, or not allowing mining at the site.

1. Analyze ESEE Consequences to Allow Proposed Mining.

A. Economic Consequences.

Walker Residence: Based upon the conflicts that have been identified, i.e. noise, dust and vibration, the Walker residence is the only "approved land use" within the identified impact area that could be impacted. The most relevant economic impact would be any reduction in property values that would occur if the surface mining operation is allowed. This will depend in part on the degree of adverse effect on this existing land use. There should be no impact from vibration.

With Condition 14, reasonable limitations are imposed upon the amount explosive per delay for the production blasting operations proposed by the Applicant. The effects of the blasting will be minimized because Condition 14 below requires the applicant to comply with the regulations adopted by the Office of Surface Mining, U.S. Department of Interior, in order to determine the allowable particle velocity per foot for a residence. The regulations determine what would be a safe number of pounds of explosive per delay that can be used without the necessity of seismic monitoring device. For instance, if the distance to the nearest structure is 2,500 feet, (which is the distance to the Coyote Well, the closest identified structure), the 2,500 feet is divided by a scaled distance factor of 55, which can be used without seismic monitoring. That number is then multiplied by itself and that provides the safe amount of explosives per delay. In this instance, the mine would be permitted 2,000 pounds per delay safely without a seismic monitoring device, assuming the distance to the nearest residence is 2,500 feet. The Applicant has indicated its standard practice is not to use more than 1,000 pounds of explosives per delay.

With those in place, there should be no vibrations based upon the Vibration Intensity Study

performed by Apollo Geophysics Corporation. See Exhibit "C". Although the ambient noise levels should not increase with the operation of the surface mine, it is likely that there will be noise from the site itself. However, this is minimized by the existence of U.S. Highway 20, lying between the Walker residence and the proposed mining operation, which will occur below grade.

Dust could also have an impact on the Walker residence. The degree of impact will depend upon the conditions imposed on any surface mining that would occur. The Applicant has a water right and will be able to utilize water to minimize dust, especially during crushing. There is evidence that the Applicant has other existing crushing sites within Central Oregon and that fugitive dust has not been an issue in the operation of those sites, even though two of them occur within urban growth boundaries.

There is no evidence of any reduction of property values for property or residences located within an SMIA zone in Deschutes County. At least one prior ESEE analysis cited a study where the property tax assessor's office could not identify any reduction in value for property located within the SMIA zone. One mitigation measure that has been identified by the Applicant is the fact that the crushing operations will, after the first phase of mining, be located below grade. Refer to the Technical Memorandums submitted by Kleinfelder dated August 23, 2005, Exhibit "D".

Although reclamation will be an ongoing part of the project, the mining operation will be in place for several years.

Antelope Range: It is difficult to quantify any economic impact on the temporary loss of antelope range within the wildlife combining zone. ODF&W has agreed to mitigation measures which are reasonable and practical to reduce the impact. Eventually, the land will be reclaimed and restored as viable antelope range habitat. There is going to be a natural area that will be preserved along U.S. Highway 20 that will be 600 feet in width. There will be a 200-foot setback from Deschutes County Road No. 23 and again a natural area of between 100 feet to 250 feet along the south and east sides of the property. Since there will be only one mining stage open on the property at any one time, there will be less than 10% of the entire 385 acres that will be disturbed at any one time.

U.S. Highway 20: The only economic impact that can be identified to U.S. Highway 20, which is the other approved land use, would be increased maintenance on the Highway. However, this will be offset by the fact that these trucks will be on some other highway in Central Oregon if this site is not approved.

Agricultural Uses: The only agricultural uses within the impact area are very limited dry range grazing. The subject property has not been grazed in the recent past. Within the impact area itself, outside of the subject property, there should be no economic impact if mining is allowed since there are no significant agricultural operations.

B. Social Consequences. Preserving this site for the production of aggregate resources could have an impact on the quality of life on the Walker residence. Those impacts are identified above. Such uses may be mitigated, however, through conditions of approval imposed on the operation. These controls are imposed by county ordinance through site plan review of aggregate mining operations. The negative social consequences of mining activities are minimal in this case since they effect only one residence, which is located 2,300 feet from the property boundaries of the proposed mining site and separated by U.S. Highway 20. It is unlikely that additional conflicting uses will arise in the future, due to the zoning and public ownership of surrounding lands.

Aesthetic Values: Views from U.S. Highway 20 are not a conflict that is identified under the Administrative Rules.

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C. Energy Consequences. There should be no energy consequences in preserving this site for the production of mineral resources on any conflicting uses within the impact area. There can be positive energy consequences in developing a new aggregate resource site that are shorter to ultimate utilization areas east of Bend than sites that exist, for instance, at O'Neil Junction in Crook County.

D. Environmental Consequences.

Walker Residence: The potential impacts to the Walker residence are identified above. Those impacts should be minimized through environmental controls placed on the mining operations through site plan review. The mining operation will occur below grade to minimize noise and a water right will be required to help control dust.

Wildlife Combining Zone: There are going to be environmental issues when habitat for antelope has been reduced even if temporarily. However, mitigation measures have been identified in cooperation with ODF&W to minimize those impacts.

U.S. Highway 20: There will be no environmental consequences to Highway 20.

Agricultural Uses: There will be no negative environmental consequences to existing agricultural practices within the impact area.

2. Analyze ESEE Consequences to Limit the Proposed Mining.

A. Economic Consequences. The economic consequences to even limit the proposed mining are essentially identified above. Any permit to allow surface mining is going to be subject to the general operation standards set forth in DCC Section 18.52.110. These include, but are not limited to access, screening, air quality, erosion and control, streams and drainage, equipment removal, flood plain restrictions, noise, hours of operation, drilling and blasting, extraction site size, fish and wildlife protection, surface water management, storage of equipment, and security plans. In addition to impacts of surface mining identified in the ESEE analysis for the specific area, the primary economic consequences of limiting the proposed mining will be that imposed upon the Applicant. Additional standards and controls usually result in greater initial operating costs and ongoing costs of operation. Additional controls, however, should have positive economic impacts on the conflicts identified within the area of impact.

B. Social Consequences. The social consequences of allowing mining have been identified above. Again, limiting mining through site plan and the imposition of controls should help mitigate the conflicts identified within the area of impact and in particular, the Walker residence.

C. Environmental Consequences. The environmental consequences of allowing the mining have been identified above. Again, the imposition of additional controls should minimize environmental consequences, which will be reviewed as part of site plan review. The environmental consequences of allowing mining have been identified above. Imposing additional controls or limiting mining should minimize the conflicts with measures to control noise, dust, emissions and the protection of wildlife habitat.

D. Energy Consequences. The energy consequences of allowing mining have been identified above. There will be shorter haul distances on routes that do not go through established urban areas.

3. Analyze ESEE Consequences to Prohibit the Proposed Mining.

A. Economic Consequences. The positive economic consequence that would occur if mining is prohibited would be the potential positive impact on the real estate value of the Walker residence. There would not be any other economic consequences to the other identified potential conflicting uses within the impact area.

There could, however, be significant negative economic consequences if mining at this site is prohibited. Applicant demonstrated that aside from the Coats pit west of Bend, most of the hard rock aggregate is actually imported from Crook County. This includes the Hap Taylor & Sons operation at O'Neil Junction, the Hooker Creek operation at O'Neil Junction, and the Applicant's mining operations at O'Neil Junction and west of Alfalfa in Crook County. Both haul costs and time are significant. This site is closer to the utilization areas in east Bend than the sites at O'Neil Junction or Alfalfa. The operation of this site will also help preserve competition in the Central Oregon market for aggregate resources. The site is even more significant since the sites that have been identified at Horse Ridge are not always capable of producing ODOT quality aggregate materials.

There is a nominal economic benefit to the Walker residence, offset by significant economic consequences that could occur at the site if mining is not allowed.

B. Environmental Consequences. If mining is prohibited, the antelope range would, of course, be preserved. Limiting mining, however, does not preclude any activity on the property. The environmental consequences of allowing mining appear to be minimal at this site and can be mitigated.

C. Energy Consequences. The energy consequences of not allowing mining on this site would eventually involve increased haul distances and/or increased time for hauling. The O'Neil Junction area in Crook County remains a primary source of hard rock. Those haul trucks must necessarily come through either Terrebonne, the O'Neil Junction north of Redmond and always through the City of Redmond to utilization sites in Bend.

D. Social Consequences. The owners of the Walker residence would benefit if mining were not allowed. The potential social consequences would also include possible loss of jobs to Crook County in the mining industry. Negative social consequences would also include the continued reliance on mining operations in Crook County, necessitating haul routes through established urban areas.

4. Minimizing Conflicts.

Based upon a review of the ESEE consequences of allowing, limiting or not allowing mining on the site, the mining should be allowed on the site, subject to certain required measures to minimize conflicts.

(e) Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated

to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

- (A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;
- (B) Not requested in the PAPA application; or
- (C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

In order to permit mining on the site and minimize the conflicts with on-site and surrounding uses, the following conditions of operation are adopted, as approved by the Board on March 1, 2006:

1. The Applicant must meet the general operation standards set forth DCC Section 18.52.110. See Exhibit "I".
2. The following mitigation proposals shall be imposed as a condition of approval:
 - a. "Blasting and crushing will cease during periods of severe winter weather conditions that may force antelope with no alternative winter range into the area adjacent to the rock pit.
 - b. The applicant will allow the Oregon Department of Fish and Wildlife District Biologist (ODFWDB) onsite to monitor severe winter conditions based on snow depth, temperature, and numbers of antelope within 2 miles of the rock pit.
 - c. Upon ODFWDB notification to the applicant when cessation of crushing and blasting is deemed necessary by the ODFWDB due to antelope winter range conditions, the application will cease blasting and crushing be necessary within 24 hrs. of the ODFWDB notice
 - d. The applicant may choose to remove crushing equipment if crushing/blasting cessation is necessary, and this removal will take up to two weeks from the date of notice of cessation."
3. Any fencing of the project must be wildlife friendly fencing that would allow an antelope to pass under the fence with as little risk as possible and must be approved by ODF&W.
 - a. The fencing shall be a three wire smooth wire fence or better with at least 18 inches from the ground to the bottom wire.
 - b. There would be a maximum of 42 inches from the ground to the top wire.
4. The reclamation plan will include replanting with native grasses and shrubs.
 - a. Each year, the Applicant must treat any noxious weeds that might invade the site work.
 - b. The Applicant must work with the Deschutes County Weed Board and adhere to the Weed Board's requirements for eradication of noxious weeds.
5. A 600-foot setback shall be maintained along U.S. Highway 20, the entire length of the project.
 - a. All mining activities shall be set back 200-foot from Deschutes County Road No. 23.
 - b. A natural area and buffer of between 100 foot and 250 feet shall be maintained along the south and east sides of the property.

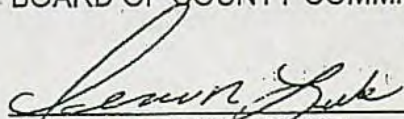
6. All access roads into the property shall be asphalt, and all internal roads shall be paved up to the mining site.
7. Any structures on the property shall be limited to a truck scale, scale control building and well head building.
8. Prior to any mining activities, the applicant shall acquire a water right to provide a pond and water storage, with a pump, to provide for dust control during the excavation and processing of materials on-site, and the water shall be used to provide dust control during the excavation and processing of materials.
9. Beginning with the second stage of mining, the on-site crushing shall occur below grade.
10. Any berms to be located on the property shall:
 - a. not exceed 15 feet in height,
 - b. shall be used to store material for future reclamation, and
 - c. shall be sprinkled with water to reduce dust.
11. Any utility lines on the property shall be underground utility lines.
12. No mining or excavation shall occur within the designated flood plain unless otherwise approved through a conditional use permit process.
13. The property will be reclaimed in its natural state in accordance with an operating and reclamation plan to be approved by DOGAMI. *See Exhibit "H".*
14. Applicant shall comply with the regulations adopted by the Office of Surface Mining, U.S. Department of Interior, in order to determine the allowable particle velocity per foot for a residence.
 - a. In addition, the Applicant's first shots will be kept small and monitored with a seismic device that reads particle velocity per foot.
 - b. The Applicant will place the monitoring device off of the 4-R property line adjacent to U.S. Highway 20.
 - c. Once Applicant has the seismic information on the initial blast, Applicant can adjust the blasts accordingly to insure that Applicant stays within these standards.
15. All lighting on the property shall conform to the lighting codes of the County and such lighting must be contained on the property.
16. Applicant shall restrict the access to the property to one road.

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IV. **CONCLUSION:** The Board hereby approves the plan amendment and zone change in File No. PA-04-8 and ZC-04-6, subject to the conditions of operation set forth above in Section 4: Minimizing Conflicts.

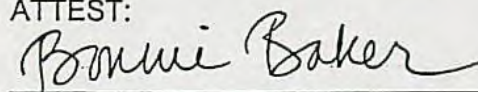
DATED this 27th day of December, 2006.

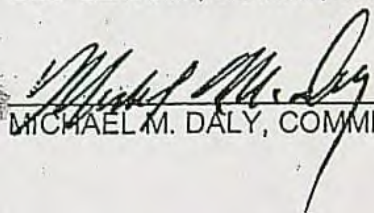
Dated this of , 2006 BOARD OF COUNTY COMMISSIONERS


DENNIS R. LUKE, CHAIR

- absent -
BEV CLARNO, COMMISSIONER

ATTEST:


Recording Secretary


MICHAEL M. DALY, COMMISSIONER



Community Development Department

Planning Division • Building Safety Division • Environmental Health Division

117 NW Lafayette Avenue • Bend, Oregon • 97701-1925

(541) 388-6575 • FAX (541) 385-1764

<http://www.co.deschutes.or.us/cdd/>

CERTIFICATE OF SERVICE BY MAIL

I certify that the attached Findings and Decision before the Board of County Commissioners of Deschutes County, dated December 27, 2006 was deposited into the mail on January 3, 2007, with first class postage paid, to the following persons or parties:

4-R Equipment, LLC P.O. Box 5006 Bend, OR 97708	Robert S. Lovlien Bryant, Lovlien & Jarvis P.O. Box 1151 Bend, OR 97709
Clay and Tammie Walker 26730 Highway 20 East Bend, OR 97701	Clay and Tammie Walker P.O. Box 871124 Wasilla, AK 99687
Keith and Janet Nash 25700 Spencer Wells Road Bend, OR 97701	Derek Stevens, Chair Deschutes County Historical Landmarks Commission 129 N.W. Idaho Avenue Bend, OR 97701
Ferguson & Associates, Inc. P.O. Box 1336 Bend, OR 97709	Andy Siemens 19134 Riverwoods Drive Bend, OR 97702
Bill Fockler 22700 Rickard Road Bend, OR 97702	Priscilla Pelham 63285 Peterman Lane Bend, OR 97701
Colleen Faulkner 23595 Highway 20 E Bend, OR 97701	Mark Dunaway Allan Chambers Pine Mountain Observatory Bend/Burns Star Rt. 97701
Wilson Wewa P.O. Box 309 Warm Springs, OR 97761	Alice Keiser Greth Anne Pelham 22240 Parker Lane Bend, OR 97701
Gladys Biglor 62139 Cody Road Bend, OR 97701	Irma Best 1118 S. 34 th Place Springfield, OR 97478
Shawn Simpson 21091 Denning Drive Bend, OR 97702	Patricia O'Day 2200 NE Highway 20 Space 40 Bend, OR 97701
Peter M. Lacy, Staff Attorney Oregon Natural Desert Association 917 SW Oak Street, Suite 408 Portland, OR 97205	Carol McBeth 1000 Friends of Oregon P.O. Box 1380 Bend, OR 97709

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Susan Gray 21097 High Meadow Bend, OR 97702	Frankie Aspinwall 19985 Glen Vista Bend, OR 97701
Scott Wallace 62915 NE 18 th Street Bend, OR 97701	Pat Kiewer 60465 Sunridge Drive Bend, OR 97702
Frank Crosser 198 E. Black Butte Avenue Sisters, OR 97759	Troy and Adrienne Reinhart 21646 Butler Market Road Bend, OR 97701
F. David Thompson 495 SW Blakely Ct. Bend, OR 97702	Gary and Gayle Estes 1657 NW LePage Place Bend, OR 97701
Sally Bird Cultural Resources Program Manager The Confederated Tribes of the Warm Springs Reservation of Oregon Warm Springs, OR 97761	Douglas M. DuPriest Zack P. Mittge Hutchinson, Cox, Coons, DuPriest, Orr & Sherlock, P.C. 200 Forum Building 777 High Street Eugene, OR 97401-2782
Paul G. Claeysens 63287 Morningstar Ct. Bend, OR 97701	Perry Chocktoot Cultural Resource Protection Specialist The Klamath Tribes P.O. Box 436 Chiloquin, OR 97624
Marianne Fellner 65044 Highland Road Bend, OR 97701	Jean Nave 69120 Damsel Fly Court Sisters, OR 97759
Arlene M. Spencer 2966 NW Wild Meadow Drive Bend, OR 97701	Mary Ann Kruse 424 NW Federal Street Bend, OR 97701
Alan N. Grogan 22573 Calgary Drive Bend, OR 97702	Dennis Griffin, Ph.D, RPA SHPO Lead Archeologist 725 Summer Street NE, Suite C Salem, OR 97301-1271
Robert B. Towne Bureau of Land Management 3050 NE 3 rd Street Prineville, OR 97754	Burns Paiute Culture and Heritage Dept. c/o Charise Snapp and Minerva Teeman HC 71100 Pasigo Street Burns, OR 97720

By mailing, regular mail, postage prepaid.

DATED this 3rd day of January, 2007

Sandy Ringer
Sandy Ringer, Senior Secretary





Oregon

Theodore R. Kulongoski, Governor

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

April 25, 2007

RON ROBINSON
4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

REFERENCE FILES: G-16403, G-16519, G-16642

Dear Mr. Robinson:

I am in the process of issuing proposed final orders for your applications noted above. As I review these files, I've determined that you have purchased a total of 20.0 mitigation credits originating with mitigation projects MP-3 and MP-27. Both projects have credits available in the General Zone of Impact, which is the zone identified for all 3 of your applications.

I need to know how the credits will be divided up between the applications, and I will need you to submit Documentary Evidence that the credits have been assigned to each application. In addition, you'll need to submit a chain of custody form for the purchase of the credits.

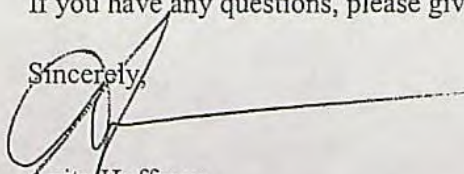
MP-27 provided you with 13.59 credits, and MP-3 provided 6.41 credits. Application G-16403 requires 4.2 credits; G-16519 requires 8.4 credits; and G-16642 requires 7.4 credits. You may divide up the credits from each project in any way you wish, but I've devised a simple calculation:

Application	Mitigation credits needed	Mitigation Project	Credits provided
G-16403	4.2	MP-27	4.2
G-16519	8.4	MP-27	8.4
G-16642	7.4	MP-27	0.99
G-16642	7.4	MP-3	6.41

I'm enclosing 3 documentary evidence forms, and two chain of custody forms. Please complete the forms, and send them back to my attention. Once I've received the forms, I can move forward with your Proposed Final Orders.

If you have any questions, please give me a call at 503-986-0815.

Sincerely,



Anita Huffman
Water Rights Caseworker

cc: Watermaster District 11
Robert Lovelien



Oregon

Theodore R. Kulongoski, Governor

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

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

February 9, 2007

RON ROBINSON JR
4-R EQUIPMENT
PO BOX 5006
BEND, OR 97708

Reference: File G-16403

Dear Mr. Robinson:

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

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

Initial Review Determinations:

1. The proposed use is not prohibited by law or rule except where otherwise noted below.
2. The use of water from WELL 1 IN DRY RIVER BASIN for INDUSTRIAL USES (GRAVEL MINING) is allowable under the Deschutes Basin Program.
3. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.

The Department has determined, based upon OAR 690-09, that the proposed ground water use is hydraulically connected to the Dry River, a tributary to the Deschutes River, and will have the potential for substantial interference with any surface water source. Therefore, in accordance with OAR 690-410-0070(1) and 690-400-0010(11)(a)(A), surface water availability and public interest considerations related to the surface water source must also be considered in the evaluation of this application.

4. Surface water is not available at any time of the year due to prior, senior water rights on the Deschutes River and downstream waters.
5. OAR 690-033-0120(2) prohibits the use of water from April 15 through September 30 of each year.
6. The mainstem Deschutes River is a State Scenic Waterway.
7. Because your well(s) and place of use are located within the Deschutes Ground Water Study Area, unless you provide mitigation, by law, the Water Resources Department is required to deny your application. The unfavorable findings of this Initial Review may be overcome if you provide mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR 690-505-0500 through 0630. These mitigation rules provide a process under which ground water applicants may mitigate for the impact that their proposed ground water use would have on surface water flows. The Department has determined your mitigation obligation is **4.2 acre feet (AF)** of water annually.

The required mitigation is based on the use of 1.0 CFS from a well in the Dry River Basin for industrial use (gravel mining) year round. The mitigation obligation is calculated based on the following uses and the corresponding volume of consumptive use of water:

USE	Quantity	Annual Volume	Mitigation Factor	Mitigation Obligation
Dust Abatement	46.0 GPM	1.0 AF	1.0	1.0 AF
Gravel Washing	400.0 GPM	5.0 AF	.10	0.50 AF
Storage/Evaporation	1.0 Acre (surface area)	n/a	2.67	2.67 AF

8. The Land-Use form received by the Department indicates that the land uses to be served by the proposed water use involves discretionary land use approvals. The approvals were being pursued at the time the Land Use form was submitted. Please note that a permit cannot be issued until documentation from Deschutes County demonstrating that the land use approval has been obtained, and all appeal periods have expired, and no appeal was received.

Summary of Initial Determinations

The use of 1.0 CUBIC FOOT PER SECOND from WELL 1 IN DRY RIVER BASIN for INDUSTRIAL USES (GRAVEL MINING) is not allowable. However, by providing sufficient mitigation water for this application, the use may be allowed under OAR 690-505-610.

Mitigation Obligation Options:

To satisfy your mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 4.2 qualifying mitigation credits from an individual or mitigation bank. If you are interested in obtaining mitigation credits, you may want to contact the Department for a list of mitigation credit holders.

If you decide to purchase mitigation credits, you must submit a documentary evidence form demonstrating that you have obtained mitigation credits. The mitigation bank or the individual you have obtained credits from should provide you with a complete form. Blank forms may be obtained from the Department at the address above, or from the Bend Regional office.

If you are proposing to implement a mitigation project, you must identify and describe the project in sufficient detail so that the Department can make a preliminary determination as to whether the proposed project will likely meet your mitigation obligation. Please contact the Department for further information on mitigation projects and the requirements to be included in your proposal.

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

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

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, February 23, 2007**. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Proceed With Your Application:

If you choose to proceed with your application, you must return the enclosed Notice of Mitigation Obligation form. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a proposed final order.

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

Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water use information, including the place and nature of use of water under the permit.

The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows provided the required mitigation is maintained.

GROUND WATER MITIGATION CONDITIONS

- | | |
|------------------------|---|
| Mitigation Obligation: | 4.2 acre feet of mitigation water in the General Zone of Impact (located anywhere in the Deschutes Basin above the Madras gage, which is located below Lake Billy Chinook.) |
| Mitigation Source: | Obtain 4.2 mitigation credits, or suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact. |

Mitigation water must be legally protected instream for instream use within the General Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

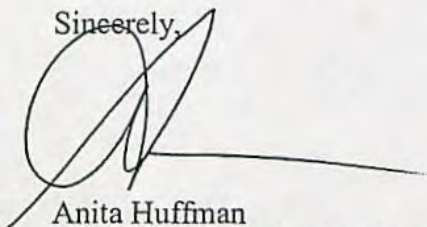
If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract or satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department prior to the use of water.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

If you have any questions:

Feel free to call me at 503-986-0815 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Anita Huffman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in black ink, appearing to be 'Anita Huffman', with a long horizontal line extending to the right.

Anita Huffman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-16403
WAB 5-30530501
POU 5-30530501
GW

APPLICATION FACT SHEET

Mail to: Applicant, Watermaster, District Biologist (ODFW)

If necessary, also mail to : Regional Water quality manager (DEQ), and DOA

Application File Number: G-16403

Applicant: RON ROBINSON JR 4-R EQUIPMENT

County: Deschutes

Watermaster: 11

Priority Date: March 7, 2005

Source: WELL 1 IN DRY RIVER BASIN

Use: INDUSTRIAL USES (GRAVEL MINING)

Quantity: 1.0 CUBIC FOOT PER SECOND

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 1A DRY R & MISC

Well Location: SESW, SECTION 30, T19S, R15E, W.M.; 600 FEET NORTH & 1400 FEET EAST FROM SW CORNER, SECTION 30

Place of Use:

SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 30
TOWNSHIP 19 SOUTH, RANGE 15 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 23, 2007

PUBLIC NOTICE DATE: Tuesday, February 13, 2007

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

Mailing List for IR Copies

Application #G-16403

IR Date: February 9, 2007

Original mailed to:

Applicant: RON ROBINSON JR 4-R EQUIPMENT, PO BOX 5006, BEND, OR 97708

Copies sent to:

1. WRD - File # G-16403
2. WRD - Water Availability: Ken Stahr
3. WRD- Laura Snedaker

IR, Map, and Fact Sheet Copies sent to:

4. WRD - Watermaster # 11
5. ODFW District Biologist: Steve Marx
6. Columbia River Intertribal Fish Commission
7. US Fish & Wildlife
8. NW Power Planning Council
9. DEQ- Eric Nigg, Eastern Region
10. DOA- Salem: Jim Johnson

Caseworker: Anita Huffman

Copies Mailed
By: <u>[Signature]</u>
(SUPPORT STAFF)
on: <u>2/9/07</u>
(DATE)

COPYSH.T.IR

**RESPONSE TO NOTICE OF MITIGATION OBLIGATION
CREDIT OR PROJECT OPTION**

OAR 690-50-06610(2) states a mitigation obligation may be satisfied by obtaining mitigation credits or by providing for implementation of a mitigation project. Please read and complete the acknowledgment of Mitigation Obligation.

Applicant(s) 4R Equipment, Ron Robinson

Applicant's Agent _____

Application number G-16403

Proposed Use Industrial Use (Gravel Mining)

Rate of water requested 1.0 cfs (cubic foot per second)

Volume of water requested n/a (acre-feet)

Mitigation Obligation 4.2 AF of mitigation water

Zone of Impact General Zone

Please read and initial the following statements:

_____ I/We intend to provide mitigation in the amounts noted above and in the appropriate zone of impact.

_____ I/We understand that mitigation must be provided within five years of issuance of the final order for this application.

The proposed mitigation source for this use will be: (please check)

_____ Purchase Mitigation Credits (and/or) _____ A mitigation project resulting in credits
Please describe the type of project, e.g., transfer, etc and any associated water right certificate, if known: _____

I understand that I must provide mitigation credits in the amount noted, or a suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5) within the appropriate zone of impact.

APPLICANT(S) _____ or

Applicant's agent _____

Date _____ Telephone Number: _____

Anita Huffman

From: Laura Snedaker [Laura.K.SNEDAKER@wrд.state.or.us]
Sent: Monday, February 12, 2007 4:28 PM
To: 'Anita Huffman'
Subject: MO for G-16403 - 4-R Equipment

-->

Anita:

I was updating my spreadsheets with the recent IR's and had a question on the 4-R Equipment MO.

It looks like they're limiting their use to 6 AF. Is that right? I see 1 af for dust abatement, 5 af for gravel washing, and 0 af specified for storage/evaporation. I want to enter the amount of volume allowed or what they've agreed to. I'm assuming that the storage/evaporation is part of the overall volume limit.

Thanks, Laura

Laura Snedaker

Senior Water Resources Coordinator

Oregon Water Resources Department

725 Summer Street NE, Suite A

Salem, OR 97301-1271

Phone: (503) 986-0884

Web: www.oregon.gov/OWRD

Anita Huffman

From: Laura Snedaker [Laura.K.SNEDAKER@wrd.state.or.us]
Sent: Friday, March 09, 2007 7:49 AM
To: 'Anita Huffman'
Subject: RE: Mitigation Obligation for 4-R Equipment G-16403 & G-16519

Anita:

Both of these have a mitigation obligation in the General Zone of Impact.

MO for G-16403 = 4.2 AF
MO for G-16519 = 8.4 AF

MO for both = 12.6 AF

As you noted, 4-R Equipment has obtained 6.41 credits from MP-3. MP-3 is based upon a permanent instream transfer (instream water right certificate 80590) that provided mitigation credits in the General Zone of Impact. To use these credits, the applicant will need to submit a documentary evidence form to assign these credits to either one or both of the proposed applications. At this time, these credits are not assigned to any ground water permit application.

The amount of credits held by 4-R Equipment is less than their mitigation obligation in the General Zone. The credits could be used to satisfy the mitigation obligation of G-16403 in full but not all of G-16519. However, there are additional credits available in the General Zone from both temporary and permanent mitigation projects.

Laura

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

-----Original Message-----

From: Anita Huffman [mailto:Anita.M.HUFFMAN@wrd.state.or.us]
Sent: Thursday, March 08, 2007 1:02 PM
To: 'Laura Snedaker'
Subject: FW: Mitigation response, please provide your feedback

This is the first of them...

Anita Huffman
Water Rights Caseworker

-----Original Message-----

From: Anita Huffman [mailto:Anita.M.HUFFMAN@wrd.state.or.us]
Sent: Tuesday, February 20, 2007 3:32 PM
To: bonnie.lamb@state.or.us; Clair.M.Kunkel@state.or.us; 'Eric Nigg';
James.W.Johnson@state.or.us; jan.houck@state.or.us; 'Jeremy.T.Giffin@wrd.state.or.us';
Nancy.Pustis@state.or.us; Paul.A.Measeles@state.or.us; rick.j.kepler@state.or.us;
Steven.D.Marx@state.or.us
Subject: Mitigation response, please provide your feedback

The following applicant has submitted a response to the notice of mitigation obligation for applications G-16403 and G16519.

G-16403 RON ROBINSON, 4-R EQUIPMENT USE: MINING (INCLUDING
GRAVEL PROCESSING & DUST ABATEMENT) RATE: 1.0 cfs ANNUAL VOLUME: 6.0 AF
MITIGATION AMOUNT: 4.2AF ZONE: GENERAL MITIGATION SOURCE: MP-3,
CREDITS

G-16519 RON ROBINSON, 4-R EQUIPMENT USE: MINING (INCLUDING GRAVEL
PROCESSING & DUST ABATEMENT) RATE: 0.12 cfs ANNUAL VOLUME: 42.01 AF
ZONE: GENERAL MITIGATION SOURCE: MP-3, CREDITS

The mitigation factor for each use was spelled out in the Initial Review for each application. You each should have received a copy of the IR. If you haven't, please let me know immediately and I'll see to it you get a copy.

Each use for mining includes a pond that is filled by the gravel washing water (reclaimed) and then reused over and over. The mitigation amount is based upon the evaporation rate for this 'bulge' type of storage.

The applicant has obtained 6.41 credits from MP-3, a permanent mitigation project. However, the mitigation obligation exceeds the credits currently obtained. The applicant is aware that additional credits will be required for permit issuance.

Please respond with your comments by March 2, 2007. Thank you.

Anita Huffman
Water Rights Caseworker
Water Rights Division
Oregon Water Resources Department
VOICE: 503-986-0815 FAX: 503-986-0901

Anita Huffman

From: PUSTIS Nancy [Nancy.Pustis@state.or.us]
Sent: Wednesday, February 21, 2007 12:03 PM
To: HUFFMAN Anita M
Subject: RE: Mitigation response, please provide your feedback

DSL has no comment.

-----Original Message-----

From: Anita Huffman [mailto:Anita.M.Huffman@state.or.us]
Sent: Tuesday, February 20, 2007 3:32 PM
To: LAMB Bonnie; KUNKEL Clair M; NIGG Eric; JOHNSON James W; HOUCK Jan; GIFFIN Jeremy T;
PUSTIS Nancy; MEASELES Paul A; KEPLER Rick J; MARX Steven D
Subject: Mitigation response, please provide your feedback

The following applicant has submitted a response to the notice of mitigation obligation for applications G-16403 and G16519.

G-16403 RON ROBINSON, 4-R EQUIPMENT USE: MINING (INCLUDING GRAVEL PROCESSING & DUST ABATEMENT) RATE: 1.0 cfs ANNUAL VOLUME: 6.0 AF
MITIGATION AMOUNT: 4.2AF ZONE: GENERAL MITIGATION SOURCE: MP-3, CREDITS

G-16519 RON ROBINSON, 4-R EQUIPMENT USE: MINING (INCLUDING GRAVEL PROCESSING & DUST ABATEMENT) RATE: 0.12 cfs ANNUAL VOLUME: 42.01 AF
ZONE: GENERAL MITIGATION SOURCE: MP-3, CREDITS

The mitigation factor for each use was spelled out in the Initial Review for each application. You each should have received a copy of the IR. If you haven't, please let me know immediately and I'll see to it you get a copy.

Each use for mining includes a pond that is filled by the gravel washing water (reclaimed) and then reused over and over. The mitigation amount is based upon the evaporation rate for this 'bulge' type of storage.

The applicant has obtained 6.41 credits from MP-3, a permanent mitigation project. However, the mitigation obligation exceeds the credits currently obtained. The applicant is aware that additional credits will be required for permit issuance.

Please respond with your comments by March 2, 2007. Thank you.

Anita Huffman
Water Rights Caseworker
Water Rights Division
Oregon Water Resources Department
VOICE: 503-986-0815 FAX: 503-986-0901

Anita Huffman

From: Anita Huffman [Anita.M.HUFFMAN@wrd.state.or.us]
Sent: Tuesday, February 20, 2007 3:32 PM
To: bonnie.lamb@state.or.us; Clair.M.Kunkel@state.or.us; 'Eric Nigg';
James.W.Johnson@state.or.us; jan.houck@state.or.us; 'Jeremy.T.Giffin@wrd.state.or.us';
Nancy.Pustis@state.or.us; Paul.A.Measeles@state.or.us; rick.j.kepler@state.or.us;
Steven.D.Marx@state.or.us
Subject: Mitigation response, please provide your feedback

The following applicant has submitted a response to the notice of mitigation obligation for applications G-16403 and G16519.

G-16403 RON ROBINSON, 4-R EQUIPMENT USE: MINING (INCLUDING GRAVEL PROCESSING & DUST
ABATEMENT) RATE: 1.0 cfs ANNUAL VOLUME: 6.0 AF MITIGATION AMOUNT: 4.2AF ZONE:
 GENERAL MITIGATION SOURCE: MP-3, CREDITS

G-16519 RON ROBINSON, 4-R EQUIPMENT USE: MINING (INCLUDING GRAVEL PROCESSING & DUST
ABATEMENT) RATE: 0.12 cfs ANNUAL VOLUME: 42.01 AF
ZONE: GENERAL MITIGATION SOURCE: MP-3, CREDITS

The mitigation factor for each use was spelled out in the Initial Review for each application. You each should have received a copy of the IR. If you haven't, please let me know immediately and I'll see to it you get a copy.

Each use for mining includes a pond that is filled by the gravel washing water (reclaimed) and then reused over and over. The mitigation amount is based upon the evaporation rate for this 'bulge' type of storage.

The applicant has obtained 6.41 credits from MP-3, a permanent mitigation project. However, the mitigation obligation exceeds the credits currently obtained. The applicant is aware that additional credits will be required for permit issuance.

Please respond with your comments by March 2, 2007. Thank you.

Anita Huffman
Water Rights Caseworker
Water Rights Division
Oregon Water Resources Department
VOICE: 503-986-0815 FAX: 503-986-0901

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RESPONSE TO NOTICE OF MITIGATION OBLIGATION
CREDIT OR PROJECT OPTION

WATER RESOURCES DEPT
SALEM, OREGON

OAR 690-50-06610(2) states a mitigation obligation may be satisfied by obtaining mitigation credits or by providing for implementation of a mitigation project. Please read and complete the acknowledgment of Mitigation Obligation.

Applicant(s) 4R Equipment, Ron Robinson

Applicant's Agent _____

Application number G-16403

Proposed Use Industrial Use (Gravel Mining)

Rate of water requested 1.0 cfs (cubic foot per second)

Volume of water requested n/a (acre-feet)

Mitigation Obligation 4.2 AF of mitigation water

Zone of Impact General Zone

Please read and initial the following statements:

☒ I/We intend to provide mitigation in the amounts noted above and in the appropriate zone of impact.

☐ I/We understand that mitigation must be provided within five years of issuance of the final order for this application.

The proposed mitigation source for this use will be: (please check)

☒ Purchase Mitigation Credits (and/or) ☐ A mitigation project resulting in credits
Please describe the type of project, e.g., transfer, etc and any associated water right certificate, if known: _____

MP3 6.41 credits - still needs 4.2 AF

I understand that I must provide mitigation credits in the amount noted, or a suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5) within the appropriate zone of impact.

APPLICANT(S) 4-R Equipment L.L.C or

Applicant's agent Ron Robinson

Date 2-15-07

Telephone Number: 541-382-4681



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

Application for a Permit to Use Ground Water

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

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WATER RESOURCES DEPT
SALEM, OREGON

1. APPLICANT INFORMATION

A. Individuals

Applicant: _____
First Last

Mailing address: _____

City State Zip

Phone: _____
Home Work Other

*Fax: _____ *E-Mail address: _____

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SALEM, OREGON

B. Organizations

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

Name of organization: 4-R Equipment

Name and title of person applying: RON ROBINSON JR

Mailing address of organization: P.O. Box 5006

Bend OR 97708
City State Zip

Phone: 541-382-4681
Day Evening

*Fax: 541-382-0277 *E-Mail address: _____

* Optional information

For Department Use		
App. No. <u>G 16403</u>	Permit No. _____	Date _____

2. PROPERTY OWNERSHIP

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

- ☒ Yes (Skip to section 3 "Ground water Development.")
- ☐ No (Please check the appropriate box below.)
- ☐ I have a recorded easement or written authorization permitting access.
 - ☐ I do not currently have written authorization or easement permitting access.
 - ☐ Written authorization or an easement is not necessary, because the only affected lands I do not own are state-owned submersible lands, and this application is for irrigated and/or domestic use only (ORS 274.040).

List the names and mailing addresses of all affected landowners.

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3. GROUND WATER DEVELOPMENT

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SALEM, OREGON

A. Well Information

Number of well(s): 1

Name of nearest surface water body: EAST Lake

Distance from well(s) to nearest stream or lake: 1) 16 miles NE of east lake

2) _____ 3) _____ 4) _____

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

2) _____ 3) _____ 4) _____

B. Well Characteristics

Wells must be constructed according to standards set by the Department for the construction and maintenance of water wells. If the well is already constructed, please enclose a copy of the well constructor's log and the well ID number, if available, for each well with this application. Identify each well with a number corresponding to the wells designated on the map and proceed to question F in this section of the form. If the well has not been constructed, or if you do not have a well log, please complete the following:

Well(s) will be constructed by: JACK ABBAS

Address: _____

Completion date: 2006

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

Well No.	Diameter	Type and size of casing	No. of feet of casing	Intervals casing is perforated (in feet)	Seal depth	Est. depth to water	Est. depth to water bearing stratum	Type of access port or measuring device	Total well depth
1	8"	1/4" Steel 8"	18 ft.	NOT Perf.	18'	1000'	1000'	Drill hole	1100'

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

C. Artesian Flows

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

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4. WATER USE

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

A. Type(s) of Use(s)

See list of beneficial uses provided in the instructions.

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

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B. Amount of Water

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

Well No.	Source or aquifer	Type of use	Total rate of water requested (in gpm)	Total annual quantity (in gallons)	Production rate of well (in gpm)
1	Deschutes Aquifer	Industrial	448	2,932,650	NOT Yet Drilled

C. Maximum Rate of Use Requested

What is the maximum, instantaneous rate of water that will be used? 448 gpm
(The fees for your application will be based on this amount.)

D. Period of Use

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

E. Acreage

If you will be applying water to land, please give the total number of acres where water will be applied or used: 15 Acres
(This number should be consistent with your application map.)

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WATER RESOURCES DEPT
SALEM, OREGON**5. WATER MANAGEMENT****A. Diversion**

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

- ☒ Pump (give horsepower and pump type): 20 HP Submersible
☐ Other means (describe): _____

B. Transport

How will you transport water to your place of use?

- ☐ Ditch or canal (give average width and depth):

Width _____ Depth _____

Is the ditch or canal to be lined? ☐ Yes ☐ No

- ☒ Pipe (give diameter and total length):

Diameter 4" Length 600'

- ☐ Other (describe) Pump From Well to Storage Pond then From Storage Pond to Sprinklers. The Pond will act as a "Bulge in the System."

Ground Water/4

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SALEM, OREGON

C. Application/Distribution Method

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

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

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

Distribution method

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

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D. Conservation

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

**WATER RESOURCES DEPT
SALEM, OREGON**

because we are watering elevated piles of
gravel, high-pressure sprinklers are the only
method that would work

6. PROJECT SCHEDULE

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

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**WATER RESOURCES DEPT
SALEM, OREGON**

Proposed date construction will begin: 5/05

Proposed date construction will be completed: 8/05

Proposed date beneficial water use will begin: 9/05 or when Permit is Completed.

7. REMARKS

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

8. MAP REQUIREMENTS

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

9. SIGNATURE

By my signature below I confirm that I understand:

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

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

Gen Johnson

Signature of Applicant (If more than one applicant, all must sign.)

Date

2-21-2005

Before you submit your application be sure you have:

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

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**WATER RESOURCES DEPT
SALEM, OREGON**

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**WATER RESOURCES DEPT
SALEM, OREGON**



Oregon Water Resources Department

FORM Q
FOR COMMERCIAL AND INDUSTRIAL WATER USES

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FEB 24 2005

WATER RESOURCES DEPT
SALEM, OREGON

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

Gravel crushing operation. DUST Abatement.

2. How will the water be used?

DUST Abatement on gravel piles and used for crushing over
A 15 Acre Area.

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

448

☐ cfs ☒ gpm

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

☒ No ☐ Yes If so, when?

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

☐ No ☒ Yes If so, when? April 1 - Sept. 30

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

☐ No ☒ Yes If so, when? OCT 1 - MAY 31

app # G 16403

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WATER RESOURCES DEPT
SALEM, OREGON

Last revision: April 9, 1996



Oregon Water Resources Department Land Use Information Form

This information is needed to determine compatibility with local comprehensive plans as required by ORS 197.180. 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, or used only on federal lands.

To Be Completed By Applicant

The following section includes information about proposed water use. This section must be completed by the individual or group that is filing an application for a water right with the Water Resources Department.

A. Applicant

Name: 4-R Equipment
Address: P.O. Box 5006
City: Bend State: OR Zip: OR Day Phone: 97708

B. Land and Location

Please provide information as requested below for all tax lots on or through which water will be diverted, conveyed, or used. Check "diverted" if water is diverted (taken) from its source on tax lot, "conveyed" if water is conveyed (transported) on tax lot, and "used" if water will be put to beneficial use on tax lot. More than one box may be checked. (Attach extra sheets as necessary.) Applicants for municipal use, or irrigation uses within irrigation districts, may substitute existing and proposed service area boundaries for the tax lot information requested below.

Tax Lot I.D.	Plan Designation (e.g. Rural Residential/RR-5)	Water to be: (check all that apply)		
<u>19-15-30 TL 902</u>	<u>EFU</u>	☒ Diverted	☒ Conveyed	☒ Used
		☐ Diverted	☐ Conveyed	☐ Used
		☐ Diverted	☐ Conveyed	☐ Used

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

C. Description of Water Use

Indicate what the water will be used for. Include the beneficial use (found in the instruction booklet for your water right application) and use the space below to describe the key characteristics of the project.

Beneficial Use(s): Industrial
Briefly describe: Dust Abatement

D. Source

Indicate the source for the proposed water use:

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

E. Quantity

Indicate the estimated quantity of water the use will require:

1.0 ☒ CFS ☐ GPM ☐ Acre-Feet

Receipt for Request for Land Use Information

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

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WATER RESOURCES DEPT
SALEM, OREGON

For Local Government Use Only

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

A. Allowed Use

Check the appropriate box below and provide requested information.

- ☐ Land uses to be served by proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s); _____ Go to section B "Approval" below
- ☒ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land use approvals as listed in the table below.

Type of Land Use Approval Needed (e.g. plan amendments, rezones, conditional use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Check the item that applies: Land Use Approval:	
Plan Amendment from EFU to and zone change	surface mining	☐ Obtained	☒ Being pursued
Site Plan Review for surface		☐ Denied	☐ Not being pursued
mining operation		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued
		☐ Obtained	☐ Being pursued
		☐ Denied	☐ Not being pursued

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

B. Approval

Please provide printed name and written signature.

Name: Paul Blikstad Date: 2-28-05
 Title: Associate Planner Phone: (541) 388-6554
 Signature: Paul Blikstad

C. Additional Comments

Local governments are invited to express special land use concerns or make recommendations to the Department regarding this proposed use of water below, or on a separate sheet.

Criteria are too numerous to list. If you
need a copy of Staff Report, it can be
sent or emailed to you.

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

Receipt for Request for Land Use Information

Name of water right applicant: _____

This receipt must be signed by a local government representative and returned to the applicant at the time they present this form. This receipt must be included in the application for a water right permit if the local government cannot provide the requested land use information while the applicant waits.

City or County: _____

Staff contact: _____ Phone: _____

Signature: _____ Date: _____

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**WATER RESOURCES DEPT
SALEM, OREGON**

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DESC 52819

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

JAN 27 2000

Instructions for completing this report WATER RESOURCES DEPT.

SALEM, OREGON

(1) OWNER:
Name Russell Michaels
Address PMB 53 2650 N.E. Hwy 20
City Bend State Ore. Zip 97701

(2) TYPE OF WORK
☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:
☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other

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

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 1080 ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE SEAL
Diameter From To Material From To Sacks or pounds
12 0 28 Bentonite 0 28 31
8 28 1080

How was seal placed: Method ☒ A ☐ B ☐ C ☐ D ☐ E
☐ Other Poured in Dry
Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from _____ ft. to _____ ft. Size of gravel _____

(6) CASING/LINER:
Diameter From To Gauge Steel Plastic Welded Threaded
Casing: 8 72 28 1250 ☒ ☐ ☒ ☐
Liner: NONE

Final location of shoe(s) 28
(7) PERFORATIONS/SCREENS:
☐ Perforations Method _____
☐ Screens Type _____ Material _____
From To Slot size Number Diameter Tele/pipe size Casing Liner
NONE

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailer ☐ Air ☐ Flowing
Yield gal/min Drawdown Drill stem at Time
NONE 1 hr.

Temperature of water _____ Depth Artesian Flow found _____
Was a water analysis done? ☐ Yes By whom _____
Did any strata contain water not suitable for intended use?
☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____
Depth of water _____

suite G
WELL I.D. # L38109
START CARD # 127861

(9) LOCATION OF WELL by legal description:
County Deschutes Latitude _____ Longitude _____
Township 19 N or S Range 15 E or W. WM.
Section 20 N 1/4 1/4 NE 1/4
Tax Lot 700 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Bend, Ore. Horse Ridge

(10) STATIC WATER LEVEL:
No Water ft. below land surface. Date _____
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:
Depth at which water was first found No water

From	To	Estimated Flow Rate	SWL

(12) WELL LOG:
Ground Elevation _____

Material	From	To	SWL
Broken Lava	0	24	
Lava	24	57	
Broken Lava	57	62	
Lava	62	157	
Mild Lava	157	210	
Lava	210	220	
Brown congl.	220	242	
Lava	242	258	
Broken Lava no Return	258	281	
SOFT	281	300	
Broken	300	349	
Lava	349	368	
Broken	368	398	
Basalt	398	423	
SOFT	423	439	
Basalt	439	518	
Brown sand stone	518	538	
Lava	538	552	
Fractured Lava	552	602	
Broken Lava	602	615	

Date started 1-13-00 Completed 1-21-00

(unbonded) Water Well Constructor Certification:
I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.

Signed Jeff Randall WWC Number _____ Date 1-21-00

(bonded) Water Well Constructor Certification:
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Doug Sien WWC Number 1255 Date 1-21-00

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SALEM, OREGON

app # G 16403

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

WATER RESOURCES DEPT.
SALEM, OREGON

WELL I.D. # 38109
START CARD # 127861

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

(1) OWNER: Well Number _____
Name Russell Michaels
Address PMB 53 2650 NE Hwy 20 suite C
City Bend State Ore. Zip 97702

(2) TYPE OF WORK
☒ New Well ☐ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:
☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other _____

(4) PROPOSED USE:
☒ Domestic ☐ Community ☐ Industrial ☐ Irrigation
☐ Thermal ☐ Injection ☐ Livestock ☐ Other _____

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 1080 ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE		SEAL		Sacks or pounds	
Diameter	From To	Material	From To		
12	0 28	Bentonite	0 28		31
8	28 1080				

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E
☐ Other Poured in dry
Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from _____ ft. to _____ ft. Size of gravel _____

(6) CASING/LINER:

Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing: 8	12	28	280	☒	☐	☒	☐
				☐	☐	☐	☐
				☐	☐	☐	☐
				☐	☐	☐	☐
Liner:	None						

Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:

From	To	Slot size	Number	Diameter	Material	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐

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

Pump	Bailer	Air	Flowing
Yield gal/min	Drawdown	Drill stem at	Time
			1 hr.

Temperature of water None Depth Artesian _____

Was a water analysis done? ☐ Yes By whom _____

Did any strata contain water not suitable for intended use? ☐ Yes ☐ No

☐ Salty ☐ Acidic ☐ Colored ☐ Other _____

Depth of strata: _____

(9) LOCATION OF WELL by legal description:
County Desch. Latitude _____ Longitude _____
Township 19 N or S Range 15 E or W. WM.
Section 20 NE 1/4 NE 1/4
Tax Lot 700 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Bend, Ore. Horse Ridge

(10) STATIC WATER LEVEL:
☒ ft. below land surface. Date 1
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

From	To	Estimated Flow Rate	SWL

(12) WELL LOG:
Ground Elevation _____

Material	From	To	SWL
Brown sand stone	615	641	
Lava	641	657	
Brown sand stone	657	685	
Lava	685	721	
Brown sand stone	721	744	
Lava	744	811	
Brown sand stone	811	832	
Lava	832	889	
Brown sand stone	889	918	
Lava	918	934	
Brown sand stone	934	961	
Basalt	961	1003	
Brown sand stone	1003	1027	
Lava	1027	1052	
Brown sand stone	1052	1061	
Lava	1061	1076	
Brown sand stone	1076	1080	

Date started 1-18-00 Completed 1-21-00

(unbonded) Water Well Constructor Certification:

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

Signed Helper WWC Number _____ Date 1-21-00

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Doug Allen WWC Number 1255 Date 1-21-00

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SALEM, OREGON
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WATER RESOURCES DEPT.
SALEM, OREGON

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

Desc
52877

WELL ID # L 38109

(START CARD) # 126687

(1) OWNER: Well Number: 1
Name Russ & Diana Michaels
Address 2650 NE Hwy. 20, Suite G-53
City Bend State OR Zip 97701

(2) TYPE OF WORK:
☐ New Well ☒ Deepening ☐ Alteration (repair/recondition) ☐ Abandonment

(3) DRILL METHOD:
☒ Rotary Air ☐ Rotary Mud ☐ Cable ☐ Auger
☐ Other

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

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 1090 ft.
Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE			SEAL			Amount sacks or pounds
Diameter	From	To	Material	From	To	
8-in	1080	1070	Not Disturbed			
7.75	1070	1080				

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E
☒ Other Not Disturbed
Backfill placed from _____ ft. to _____ ft. Material _____
Gravel placed from _____ ft. to _____ ft. Size of gravel _____

(6) CASING/LINER:
Diameter From To Gauge Steel Plastic Welded Threaded
Casing: _____
Liner: _____
Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:
☐ Perforations Method _____
☐ Screens Type _____ Material _____
From To Slot size Number Diameter Hole/pipe size Casing Liner

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailor ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
No Water			

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

(9) LOCATION OF WELL by legal description:
County Deschutes Latitude _____ Longitude _____
Township 19S N or S. Range 15E E or W. of WM.
Section 20 NW 1/4 NE 1/4
Tax lot 700 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) _____

(10) STATIC WATER LEVEL:
ft. below land surface. Date _____
Artesian pressure _____ lb. **RECEIVED**

(11) WATER BEARING ZONES:
Depth at which water was first found No Water **MAR 10 2000**
From To Estimated Flow Rate SWL
No Water **WATER RESOURCES DEPT.**
SALEM, OREGON

(12) WELL LOG:
Ground elevation 4400
Material From To SWL
Soft Dry Brown Sand 1080 1120
Brown, Gray & Red Volcanic Tuft 1120 1173
Hard Gray Basalt 1173 1180
Borehole filled back to 1090' with brown sand
Well borehole has filled back in for the 3rd time from 1180' back to 1090'. Borehole cement grouted from 911' to 1088' and redrilled, 8 cubic yards used in that zone. Unable to economically advance hole with direct air. Temporary abandon until owner decides what to do.
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SALEM, OREGON

Date started 2/29/2000 Completed 3/7/2000

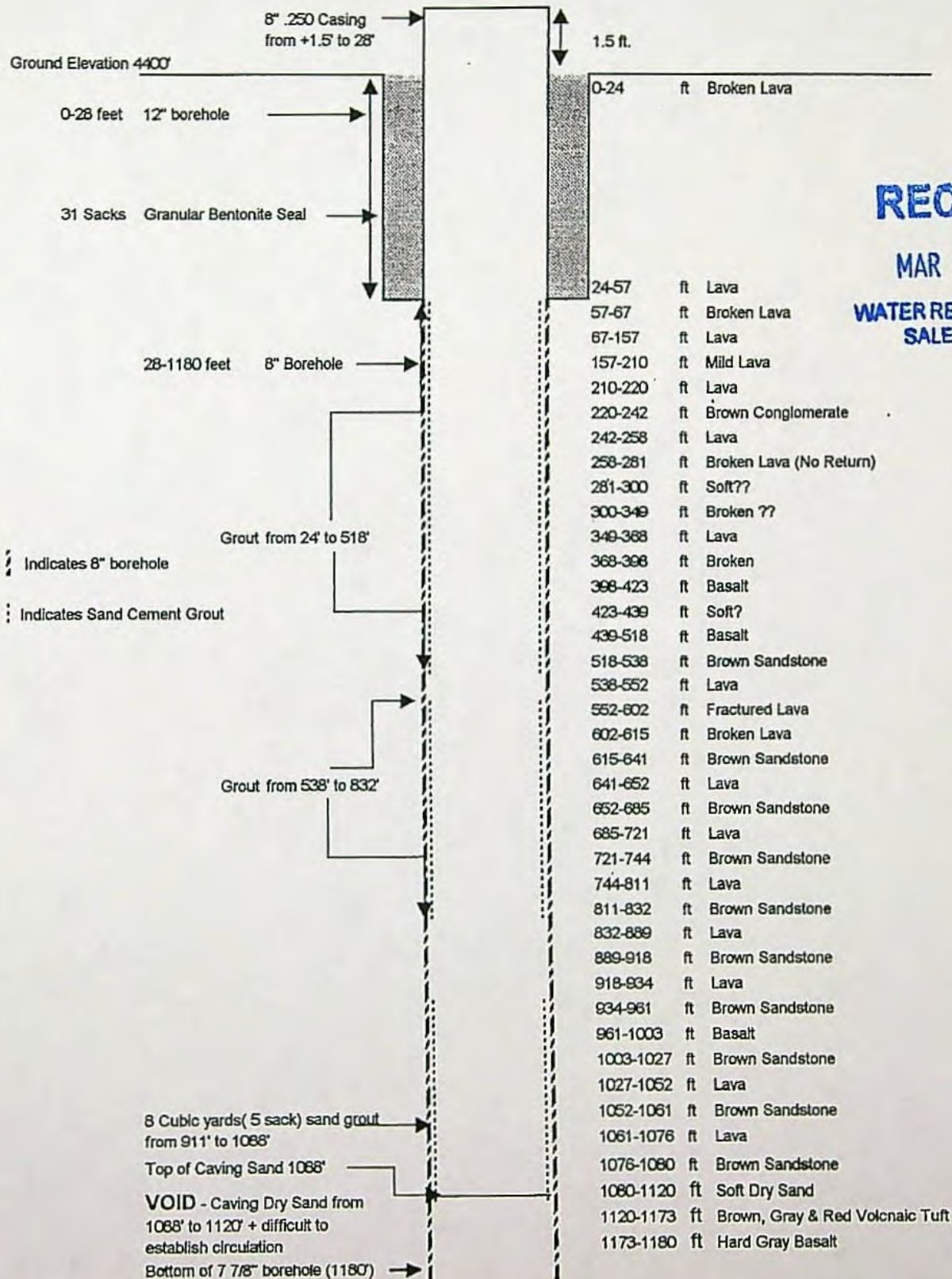
(unbonded) Water Well Constructor Certification:
I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to my best knowledge and belief.

Signed _____ WWC Number _____ Date _____

(bonded) Water Well Constructor Certification:
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Robert Buckner WWC Number 1385 Date 3/8/00
Robert Buckner

Michaels Domestic Water Well **WELL CONSTRUCTION DIAGRAM**



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**WATER RESOURCES DEPT
SALEM, OREGON**

Note: All Construction from 0' to 1080' done by others, see previous log, Information contained herein from previous log is for illustrative purposes only

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

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

WELL I.D. # 42594
START CARD # 133419

(1) OWNER: Name Brian Brown Well Number _____
Address 16900 Upper Boons Ferry
City Durham State Ore Zip 97224

(2) TYPE OF WORK

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

(3) DRILL METHOD:

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

(4) PROPOSED USE:

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

(5) BORE HOLE CONSTRUCTION:

Special Construction approval ☐ Yes ☒ No Depth of Completed Well 550

Explosives used ☐ Yes ☒ No Type _____ Amount _____

HOLE SEAL
Diameter From To Material From To Sacks or pounds
12 0 18 1/2 Benlomite 18 1/2 15 sacks
8 18 1/2 550

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

☐ Other Poured in Dry

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

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

(6) CASING/LINER:

Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing: <u>8</u>	<u>11 1/2</u>	<u>18 1/2</u>	<u>250</u>	☒	☐	☐	☐
Liner: <u>NONE</u>				☐	☐	☐	☐

Final location of shoe(s) _____

(7) PERFORATIONS/SCREENS:

☐ Perforations Method _____
☐ Screens Type _____ Material _____

From	To	Slot size	Number	Diameter	Telephone size	Casing	Liner
						☐	☐
						☐	☐
						☐	☐
						☐	☐
						☐	☐

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

☐ Pump ☐ Bailer ☐ Air ☐ Flowing
Yield gal/min Drawdown Drill stem at Time
NONE Water 1 hr.

Temperature of water _____ Depth Artesian Flow Found _____

Was a water analysis done? ☐ Yes By whom _____

Did any strata contain water not suitable for intended use? ☐ Too little

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other _____

Depth of strata: _____

(9) LOCATION OF WELL by legal description:

County Desch. Latitude _____ Longitude _____
Township 19 N or S Range 15 E or W. WM.
Section 17 SW 1/4 SE 1/4
Tax Lot 600 Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) Millican, Ore

(10) STATIC WATER LEVEL:

NO WATER below land surface. Date 8-4-00
Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found NONE

From	To	Estimated Flow Rate	SWL
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AUG 10 2000			

(12) WELL LOG: WATER RESOURCES DEPT.
SALEM, OREGON

Material	From	To	SWL
Top Soil	0	4	
Basalt	4	28	
Brown congl.	28	53	
Basalt	53	82	
Brown congl.	82	107	
Hard Basalt	107	142	
Gray congl.	142	162	
Mild Lava	162	214	
Basalt	214	231	
Mild Brown Lava	231	278	
Basalt	278	299	
Brown congl.	299	322	
Basalt	322	355	
Brown congl.	355	389	
Basalt	389	505	
Loose Red Cin. Lost Return	505	530	
Lava	530	550	

Date started 8-3-00 Completed 8-4-00

(unbonded) Water Well Constructor Certification:

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

Signed Jeff Randall WWC Number _____ Date 8-4-00

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

Signed Doug Lukin WWC Number 1255 Date 8-4-00

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app # G16403

MAR 07 2005

WATER RESOURCES DEPT
SALEM, OREGON

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

DESE
1603

195/15E/3300
Page 1

(START CARD) # 49400

(1) OWNER: Well Number #2
Name Earl Conyers
Address 1241 Highway 508
City Chehalis, State Wa Zip 98532

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

(3) DRILL METHOD:
☒ Rotary Air ☐ Rotary Mud ☐ Cable
☐ Other

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

(5) BORE HOLE CONSTRUCTION:
Special Construction approval ☐ Yes ☒ No Depth of Completed Well 405 ft.
Explosives used ☐ Yes ☒ No Type Amount

HOLE	SEAL	Amount
Diameter From To	Material From To	sacks or pounds
10" 0 43	Cement 22 43	6
8 43 348	Bentonite 0 22	14
7.5 348 405		

How was seal placed: Method ☐ A ☐ B ☐ C ☐ D ☐ E
☒ Other Pumped W/Trimmie
Backfill placed from ft. to ft. Material
Gravel placed from ft. to ft. Size of gravel

Diameter	From	To	Gauge	Steel	Plastic	Welded	Threaded
Casing 8"	+2	43	250	☒	☐	☒	☐
Liner 6"	+1	347	188	☒	☐	☒	☐

Final location of shoe(s)

From	To	Slot size	Number	Diameter	Tele/pipe size	Casing	Liner
330	347	3/16	204			☐	☒

(8) WELL TESTS: Minimum testing time is 1 hour
☐ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
12	1	398	1 hr.

Temperature of Water 67 Depth Artesian Flow Found
Was a water analysis done? ☐ Yes By whom
Did any strata contain water not suitable for intended use? ☐ Too little
☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other
Depth of strata:

(9) LOCATION OF WELL by legal description:
County Deschutes Latitude Longitude
Township 19S N or S. Range 15E E or W. WM.
Section 33 SW 1/4 SW 1/4
Tax Lot 300 Lot Block Subdivision
Street Address of Well (or nearest address) 27650 Ford Rd
Millican, Or 97712

(10) STATIC WATER LEVEL:
352 ft. below land surface. Date 12/22/92
Artesian pressure lb. per square inch. Date

(11) WATER BEARING ZONES:
Depth at which water was first found 371

From	To	Estimated Flow Rate	SWL
371	388	10	356

(12) WELL LOG:
Ground elevation

Material	From	To	SWL
Top Soil	0	9	
Brown Conglomerate	9	36	
Hard Grey Basalt	36	58	
Brown Sandstone	58	83	
Broken Brown Basalt	83	98	
Red Conglomerate	98	114	
Black Basalt	114	122	
Red Basalt	122	147	
Orange Sandstone	147	154	
Broken Brown Basalt	154	178	
Red Conglomerate	178	188	
Broken Basalt	188	209	
Brown Sandstone	209	237	
Hard Grey Basalt	237	258	
Red Sandstone	258	269	
Brown Sandstone	269	292	
Broken Brown Basalt	292	311	
Hard Grey Sandstone	311	334	
Broken Brown/Grey Basalt	334	358	

Date started 12/3/92 Completed 12/16/92

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

Signed Robert Buckner WWC Number 1385
Date 1/2/93

(bonded) Water Well Constructor Certification:
I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed Robert Buckner WWC Number 1385
Date 1/2/93

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app # G 16403

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WATER RESOURCES DEPT
SALEM, OREGON

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(START CARD) 049400

(9) LOCATION OF WELL by legal description:

County _____ Latitude _____ Longitude _____
Township _____ N or S. Range _____ E or W. WM.
Section _____ $\frac{1}{4}$ _____ $\frac{1}{4}$
Tax Lot _____ Lot _____ Block _____ Subdivision _____
Street Address of Well (or nearest address) _____

(10) STATIC WATER LEVEL:

_____ ft. below land surface. Date _____

Artesian pressure _____ lb. per square inch. Date _____

(11) WATER BEARING ZONES:

Depth at which water was first found _____

From	To	Estimated Flow Rate	SWL

(12) WELL LOG:

Ground elevation _____[illegible]

Date started 12/3/92 Completed 12/16/92

(unbonded) Water Well Constructor Certification:

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

Signed Robert Buckner WWC Number 1385
Date 1/2/93

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon well construction standards. This report is true to the best of my knowledge and belief.

Signed Robert Buckner WWC Number 1385
Date 1/2/92

7061-199756 TH(CS)

DESCHUTES COUNTY OFFICIAL RECORDS
NANCY BLANKENSHIP, COUNTY CLERK

2003-44937



\$41.00

00179665200300449370030030

07/03/2003 12:34:50 PM

D-D Cnt=1 Stn=4 BECKEY
\$15.00 \$11.00 \$10.00 \$5.00



After recording return to:
4 R Equipment LLC
P.O. Box 5006
Bend, OR 97708-5006

Until a change is requested all tax statements
shall be sent to the following address:
4 R Equipment LLC
P.O. Box 5006
Bend, OR 97708-5006

File No.: 7061-199756 (CS)
Date: June 13, 2003

RECEIVED

MAR 07 2005

WATER RESOURCES DEPT
SALEM, OREGON

STATUTORY WARRANTY DEED

Thomas M. O'Brien, as Trustee of the Thomas and Glada O'Brien Trust R-501, dated July 30, 1991, Grantor, conveys and warrants to 4 R Equipment LLC, a Oregon Limited Liability Company, the following described real property free of liens and encumbrances, except as specifically set forth herein:

The Southeast Quarter of the Northwest Quarter (SE1/4 NW1/4); Northeast Quarter of the Southwest Quarter (NE1/4 SW1/4); South Half of the Southwest Quarter (S1/2 SW1/4) and the Southeast Quarter (SE1/4) of Section 30, TOWNSHIP 19 SOUTH, RANGE 15 EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon

This property is free from liens and encumbrances, EXCEPT:

1. The premises are zoned and classified for Farm use as disclosed by assessment and tax roll, and if the land becomes disqualified for such use under the statute, an additional tax or penalty may be imposed; reservations, easements, rights and rights of way of record, if any; also exceptions of oil, gas, minerals and hydrocarbons, and/or lease, if any, without the right of surface entry.

THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.

The true consideration for this conveyance is **\$83,250.00**. (Here comply with requirements of ORS 93.030)

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

RECEIPT # **88261**

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

INVOICE # _____

RECEIVED FROM: <u>4R Equipment, LLC</u>	APPLICATION
BY: _____	PERMIT
	TRANSFER

CASH: ☐ CHECK: # X 32359 OTHER: (IDENTIFY) ☐ _____

TOTAL REC'D \$ 1,050.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES	\$
OTHER: (IDENTIFY) _____	\$
0243 I/S Lease _____	
0244 Muni Water Mgmt. Plan _____	
0245 Cons. Water _____	

4270 WRD OPERATING ACCT

MISCELLANEOUS	<u>E 16403 - 350.00</u>	\$
0407 COPY & TAPE FEES	<u>G 16642 350.00</u>	\$
0410 RESEARCH FEES	<u>G 16519 350.00</u>	\$
0408 MISC REVENUE: (IDENTIFY) _____		\$
TC162 DEPOSIT LIAB. (IDENTIFY) _____		\$
0240 EXTENSION OF TIME		\$
WATER RIGHTS:	EXAM FEE	RECORD FEE
0201 SURFACE WATER	\$	0202 \$
0203 GROUND WATER	\$	0204 \$ <u>1,050.00</u>
0205 TRANSFER	\$	
WELL CONSTRUCTION	EXAM FEE	LICENSE FEE
0218 WELL DRILL CONSTRUCTOR	\$	0219 \$
LANDOWNER'S PERMIT		0220 \$
OTHER (IDENTIFY) _____		

0536 TREASURY 0437 WELL CONST. START FEE

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

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

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

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **88261**

DATED: 6/22/07 BY: L. Pacheco

**STATE OF OREGON
WATER RESOURCES DEPARTMENT**

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

RECEIPT # **73143**

INVOICE # _____

RECEIVED FROM: 4-R Equipment, LLC

APPLICATION	G16403
PERMIT	
TRANSFER	

BY: _____

CASH: ☐ CHECK: # 21112 ☒ OTHER: (IDENTIFY) _____

TOTAL REC'D \$ 500.00

1083 TREASURY 4170 WRD MISC CASH ACCT

0407 COPIES

\$
\$

OTHER: (IDENTIFY) _____

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

4270 WRD OPERATING ACCT

MISCELLANEOUS

0407 COPY & TAPE FEES

\$
\$

0410 RESEARCH FEES

\$

0408 MISC REVENUE: (IDENTIFY) _____

\$

TC162 DEPOSIT LIAB. (IDENTIFY) _____

\$

0240 EXTENSION OF TIME

\$

WATER RIGHTS:

0201 SURFACE WATER

EXAM FEE
\$
\$ <u>500.00</u>
\$

0202

RECORD FEE
\$
\$

0203 GROUND WATER

0204

\$

0205 TRANSFER

EXAM FEE
\$

0219

LICENSE FEE
\$
\$

WELL CONSTRUCTION

0218 WELL DRILL CONSTRUCTOR

0220

LANDOWNER'S PERMIT

OTHER (IDENTIFY) _____

0536 TREASURY 0437 WELL CONST. START FEE

0211 WELL CONST START FEE

\$
\$

CARD #	
CARD #	

0210 MONITORING WELLS

OTHER (IDENTIFY) _____

0607 TREASURY 0467 HYDRO ACTIVITY LIC NUMBER

0233 POWER LICENSE FEE (FW/WRD)

\$
\$

0231 HYDRO LICENSE FEE (FW/WRD)

\$

HYDRO APPLICATION

TREASURY OTHER / RDX

FUND _____ TITLE _____

OBJ. CODE _____ VENDOR # _____

DESCRIPTION _____ \$ _____

RECEIPT: **73143**

DATED: 3/7/05 BY: X Albino