Laura A. Schroeder
Licensed in Oregon, Idaho, Nevada and Washington

V. Scott Borison, Ph.D.
Certified Legal Manager

Daryl N. Cole
Office Manager

SCHROEDER
LAW OFFICES, P.C.

Lynn L. Steyaert
Licensed in Oregon and Nevada

Cortney D. Duke
Licensed in Oregon and Nevada

Colm Moore
Licensed in Oregon and Nevada

Therese A. Ure
Licensed in Nevada

Wyatt E. Rolfe
Licensed in Oregon and Nevada

February 29, 2008

VIA US EXPRESS MAIL

Oregon Water Resources Department
725 Summer Street N.E. Suite A
Salem, OR 97301-4172

RE: Daniel Heath
Application for a Permit to Use Ground Water

To Whom It May Concern:

This firm represents Daniel Heath. Enclosed please find an Application for a Permit to Use Ground Water and all associated documents for submission to the Water Resources Department on behalf of Daniel Heath. Also enclosed is the applicant's check in the sum of $900.00 for the applicable submission fee. It is our understanding that if a permit is issued to the applicant, an additional $300.00 will be required prior to recording.

We have also enclosed a copy of the application to be date and file stamped upon receipt and returned to our office in the enclosed postage prepaid envelope.

Thank you for your attention to this matter. Please direct any questions regarding the application or associated documents to me or paralegal Tara Jackson, of this office, at (503) 281-4100. Additionally, please copy our office on any correspondence or documents in this matter.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D Duke

Cortney D. Duke

CDD:kct

Enclosures

cc: Client

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WATER RESOURCES DEPT
SALEM, OREGON

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/OWRD/PUBS/forms.shtml.

1. APPLICANT INFORMATION

A. Individuals

Applicant: Daniel (First) Heath (Last)

Mailing address: 55959 Hwy. 244

La Grande (City) Oregon (State) 97850 (Zip)

Phone: 541-963-9283 (Home) (Work) (Other)

*Fax: _____ *E-Mail address: dangheath@yahoo.com

B. Organizations

(Corporations, associations, firms, partnerships, joint stock companies, cooperatives, public and municipal corporations)

Name of organization: Bear Creek Quarter Horse Ranch, LLC

Name and title of person applying: Daniel G. Heath, Member

Mailing address of organization: 55959 Hwy. 224

La Grande (City) Oregon (State) 97850 (Zip)

Phone: 541-963-9283 (Day) Same (Evening)

*Fax: _____ *E-Mail address: dangheath@yahoo.com

* *Optional information*

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For Department Use

App. No. _____ 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).

You must provide the legal description of: (1) the property from which the water is to be diverted, (2) any property crossed by the proposed ditch, canal or other work, and (3) any property on which the water is to be used as depicted on the map.

List the names and mailing addresses of all affected landowners.

State of Oregon. Please note that the temporary permit authorizing access is not enclosed and will be forwarded separately.

3. GROUND WATER DEVELOPMENT

A. Well Information

Number of well(s): 1

Name of nearest surface water body: Grande Ronde River, Jordan Creek, or Bear Creek

Distance from well(s) to nearest stream or lake: 1) 1200 feet (Grande Ronde)

2) 1200 feet (Jordan Creek) 3) 500 feet (Bear Creek) 4) _____

If distance from surface water is less than one mile, indicate elevation difference between nearest surface water and well head. 1) Approximately 20 feet

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 section 4 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: Stoffel Bros. Drilling Co.

Address: P.O. Box 549

Enterprise, Oregon 97828

Completion date: As soon as possible, 2008

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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	TBD	Steel, 12"	Into Basalt	200	Into Basalt	170-500	170-500	TBD	170-500

Note: Well numbers in this listing must correspond to well locations(s) shown on accompanying map.

If well log is not available, or well is not yet constructed, you must provide: proposed total depth, depth of casing and seal, and the anticipated perforation and open intervals.

C. Artesian Flows

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

If we get Artesian Flow, I would not let it free flow when not in use.

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	Deep Aquifer	Crop Irrigation	1123	~ 194,054,400 (irrigation season only)	100+

C. Maximum Rate of Use Requested
What is the maximum, instantaneous rate of water that will be used? 2.5 cfs
(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: March 1-October 31st
(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: 290.8 acres
(This number should be consistent with your application map.)

5. WATER MANAGEMENT

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

☐ Pump (give horsepower and pump type): Can not be determined until well is constructed

☐ 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" to 6" Length Approximately 5,000 ft.

☐ Other (describe) _____

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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

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.

I will use the most conservative method of sprinkler irrigation, with low head pivots first, then wheel lines next and last hand lines.

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.

Proposed date construction will begin: June 1, 2008

Proposed date construction will be completed: July 1, 2008

Proposed date beneficial water use will begin: August 2008

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.

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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:

Bear Creek Quarter Horse Ranch, LLC

managing member 2/22/2008

Signature of Applicant *(If more than one applicant, all must sign.)* Date

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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Oregon Water Resources Department

FORM I

FOR IRRIGATION WATER USE

1. Please indicate whether you are requesting a primary or supplemental irrigation water right.

☑ **Primary** ☐ **Supplemental**

If supplemental, please indicate the number of acres that will be irrigated for each type of use.

Primary: 290.8 Acres

Secondary: 0 Acres

List the permit or certificate number of the primary water right: No. _____

2. Please list the anticipated crops you will grow and whether you will be irrigating them for a full or partial season:

1. Pasture Grass Hay ☑ Full season ☐ Partial season (from:_____ to _____)
2. Alfalfa ☑ Full season ☐ Partial season (from:_____ to _____)
3. Grain Hay ☑ Full season ☐ Partial season (from:_____ to _____)
4. _____ ☐ Full season ☐ Partial season (from:_____ to _____)

3. Indicate the maximum total number of acre-feet you expect to use in an irrigation season:

600 acre-feet

(1 acre-foot equals 12 inches of water spread over 1 acre, or 43,560 cubic feet, or 325,851 gallons.)

4. How will you schedule your applications of water? Will you be applying water in the evenings, twice a week, daily?

☑ Daily during daytime hours
☑ Daily during nighttime hours
☐ Two or three times weekly during daytime
☐ Two or three times weekly during nighttime
☐ Weekly, during daytime hours
☐ Weekly, during nighttime hours
☐ Other, explain: _____

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BT-18354

20076591

After recording return to:
Eastern Oregon Title, Inc.
1601 Adams Avenue
La Grande, Oregon 97850

Until a change is requested all tax statements shall be sent to the following address:
Bear Creek Ranch, Quarter Horses LLC
55959 Hwy 244
La Grande, OR 97850

STATUTORY WARRANTY DEED

MOSS CREEK, LLC, AN OREGON LIMITED LIABILITY COMPANY, AND ALTA CUNHA RANCHES, LLC, AN OREGON LIMITED LIABILITY COMPANY, AS TENANTS IN COMMON, Grantor, conveys and warrants to **BEAR CREEK RANCH, QUARTER HORSES, LLC**, Grantee.

The true consideration for this conveyance is **$2,650,000.00**, of which a portion is paid to an accommodator as part of an IRC Tax Deferred Exchange on behalf of the Grantor. (Here comply with requirements of ORS 93.030)

The following described real property free of liens and encumbrances, except as specifically set forth herein:

IN TOWNSHIP 3 SOUTH, RANGE 36 EAST OF THE WILLAMETTE MERIDIAN, IN UNION COUNTY, OREGON

Section 13:

All that part of the Southwest quarter of the Southwest quarter (SW1/4SW1/4) lying Westerly of the County Road.

Section 14:

The entire East half (E1/2), the Northwest quarter of the Northwest quarter (NW1/4NW1/4), the South half of the Northwest quarter (S1/2NW1/4) and the entire Southwest quarter (SW1/4).

Section 15:

The East half of the East half (E1/2E1/2), the Southwest quarter of the Northeast quarter (SW1/4NE1/4), and the West half of the Southeast quarter (W1/2SE1/4).

Section 22:

The East half of the East half (E1/2 E1/2), the Northwest quarter of the Northeast quarter (NW1/4NE1/4), and the Northeast quarter of the Northwest quarter (NE1/4NW1/4).

Section 23:

The entire Northwest quarter (NW1/4), the North half of the Southwest quarter (N1/2SW1/4), the Northwest quarter of the Southeast quarter (NW1/4SE1/4), and the Southwest quarter of the Northeast quarter (SW1/4NE1/4).

EXCEPTING THEREFROM those portions lying within Sections 14 and 15 conveyed to the State of Oregon, by and through its State Highway Commission for a highway, by Warranty Deed recorded September 18, 1950, in Book 123, Page 68, Records of Union County, Oregon.

(03S36-700)

This property is free from liens and encumbrances, EXCEPT:

1. The assessment roll and the tax roll disclosed that the within described premises were specially assessed as farm land. If the land has become or becomes disqualified for the special assessment under the statute, an additional tax and interest may be levied for the years in which the land was subject to the special land use assessment.

2. Rights of the public in and to that portion of this property lying below the high water mark of certain creeks, as they cross this property.

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3. Rights of the public and ownership which may be claimed by the State of Oregon in and to that portion of this property lying below the high water mark of the Grande Ronde River.

4. Right-of-way for Union County Road No. 2 (Rankin Road) across this property

5. Right-of-way Easement, including the terms and provisions thereof, dated December 26, 1939, recorded December 27, 1939, in Book 100, Page 638, Records of Union County, Oregon, for a road across this property.

6. Right-of-Way Easement, including the terms and provisions thereof, granted to California-Pacific Utilities Company, a corporation, dated October 12, 1972, recorded October 16, 1972, as Microfilm Document No. 41013, Records of Union County, Oregon, for the exclusive right to construct, reconstruct, operate and maintain electric power or telephone lines and/or gas or water mains and all necessary poles, towers, pipe, valves and appurtenances, over, under and upon a strip of this property 10 feet in width.

   Note: All Electric utility easements have been transferred to Oregon Trail Electric Co-op.

7. Right-of-Way Easement, including the terms and provisions thereof, granted to California-Pacific Utilities Company, a corporation, dated October 12, 1972, recorded July 11, 1973, as Microfilm Document No. 45087, Records of Union County, Oregon, for the exclusive right to construct, reconstruct, operate and maintain electric power or telephone lines and/or gas or water mains and all necessary poles, towers, pipe, valves and appurtenances, over, under and upon a strip of this property 10 feet in width.

   Note: All Electric utility easements have been transferred to Oregon Trail Electric Co-op.

8. Right-of-Way Easement, including the terms and provisions thereof, granted to California-Pacific Utilities Company, a corporation; dated July 16, 1973, recorded July 19, 1973, as Microfilm Document No. 45199, Records of Union County, Oregon, for the exclusive right to construct, reconstruct, operate and maintain electric power or telephone lines and/or gas or water mains and all necessary poles, towers, pipe, valves and appurtenances, over, under and upon a strip of this property 10 feet in width.

   Note: All Electric utility easements have been transferred to Oregon Trail Electric Co-op.

9. Right-of-Way Easement, including the terms and provisions thereof, granted to California-Pacific Utilities Company, a corporation; dated June 10, 1976, recorded July 26, 1976, as Microfilm Document No. 62967, Records of Union County, Oregon, for the right to construct, reconstruct, operate and maintain an underground electric power line under a strip of this property 15 feet in width

   Note: All Electric utility easements have been transferred to Oregon Trail Electric Co-op.

10. Right-of-Way Easement, including the terms and provisions thereof, granted to General Telephone Company of the Northwest, Inc., a corporation, dated June 6, 1978, recorded August 3, 1978, as Microfilm Document No. 78873, Records of Union County, Oregon, for a perpetual right of way and easement for buried cables, under and across a portion of this property.

11. Easement Private Party, including the terms and provisions thereof, granted to Oregon Trail Electric Consumers Cooperative, a cooperative corporation, dated June 30, 1997, recorded July 14, 1997, as Microfilm Document No. 973945, Records of Union County, Oregon, for an easement and right to construct, reconstruct, operate, maintain, repair, replace and remove electric power lines and all necessary transformers, cables, conduits, pipes and appurtenances under a strip of this property 10 feet in width.

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)). THIS INSTRUMENT DOES 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 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER CHAPTER 1, OREGON LAWS 2005 (BALLOT MEASURE 37 (2004)).

Dated this 26 day of **November, 2007.**

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MOSS CREEK, LLC, AN OREGON LIMITED LIABILITY COMPANY
By:

Carla Cunha, Member

ALTA CUNHA RANCHES, LLC, AN OREGON LIMITED LIABILITY COMPANY
By:

Shauna Mosgrove, member

STATE OF **OREGON**)
)ss.
COUNTY OF **UNION**)

Signed or attested before me on this 26 day of November, 2007 by Carla Cunha, member of Moss Creek LLC, An Oregon Limited Liability Company and Shauna Mosgrove, member of Alta Cunha Ranches LLC An Oregon Limited Liability Company.

OFFICIAL SEAL
PEG MC DANIEL
NOTARY PUBLIC-OREGON
COMMISSION NO. A397203
MY COMMISSION EXPIRES SEPTEMBER 15, 2009

Peg McDaniel
Notary Public for the State of: Oregon
My commission expires: September 15, 2009

STATE OF OREGON }
County of Union } SS

I certify that this instrument was received and recorded in the book of records of said county.

Union County Clerk

by: _____ Deputy.

DOC#: 20076591
RCPT: 130415 37.00
11/26/2007 3:35 PM
REFUND: .00

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SALEM, OREGON

13M35805

Oregon
Theodore R. Kulongoski, Governor

Department of Transportation
District 13
3014 Island Avenue
La Grande, OR 97850
(541) 963-8406
FAX (541) 963-0249

LAND USE AGREEMENT

BETWEEN: Oregon Department of Transportation,

and

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WATER RESOURCES DEPT
SALEM, OREGON

Dan Heath
55959 Hwy 244
La Grande, Oregon 97850

COUNTY: Union
CITY: La Grande
TAX LOT: T2S R46E S34, 2300
RW MAP NO: 05B-36-06
STATION NO: 278+58

HIGHWAY NO: 341 ROUTE NO: 244
HIGHWAY: Ukiah/Hilgard Highway
MILEPOST: 42.58

Permission to use property, under the jurisdiction of the State of Oregon, by and through the Department of Transportation (ODOT), hereinafter referred to as "State", consisting of:
Tax Lot – **T03S R36 TL700**.

Permission to use this property hereinafter referred to as "premises" to temporarily lay aluminum pipe for irrigation on State Right of Way under Bear Creek Bridge #18657.

Purpose is hereby granted to the undersigned permittee for the period from 05/01/2008, through 09/30/2008 and thereafter on a year to year to year basis.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Permittee agrees to reimburse the State for the costs for acquiring, replacing damaged or moved features which were present on the premises prior to this permit. No use of premises shall cause damage to existing structure on premises.

2. Premises shall not be used for the placement of: (1) any advertising sign nor; (2) buildings or structures of any type. Premises shall not be used as a place for the storage, keeping, buying, selling, dismantling or other processing of any junk, scrap, junked motor vehicles or parts thereof, debris, trash, waste or other such materials, or toxic or hazardous materials. Nor shall any objectionable or unlawful use be made thereof. In the event of violation of any of the above conditions, Permittee shall be solely responsible for the removal or restoration costs of the premises and this Permit shall become null and void.

3. State shall have the right to retake possession of premises without written notice at any time such action may appear to State to be in the public interest and such repossession by State shall be without liability for injury or damage of any nature whatsoever to permittee. This permit may be terminated by the State with (10) days notice. Permittee may also terminate this permit with (10) days notice. In either event the permittee shall clean up area, removing any materials which may have been piled or stored and shall leave the premises in a clean and sightly condition.

13M35805

13M35805

Nothing in this Permit shall be construed to give Permittee an interest in premises other than the right of possession as provided herein

4. By acceptance of this permit and the exercise of the right granted herein, Permittee agrees to indemnify and hold harmless the State of Oregon, by and through its Department of Transportation, the members thereof, its officers, employees and agents, from and against all damages, claims, demands, suits actions or cause of suit or action resulting from or cause of, any damage to property or injury or death of any person arising out of the occupancy and use of premises by permittee, their heirs and invitees.

5. Permittee shall be responsible and liable for (1) investigating presence/absence of any legally protected or regulated environmental resource(s) in the action area; (2) determining any and all restrictions or requirements that relate to the proposed actions, and complying with such, including but not limited to those relating to hazardous material(s), water quality constraints, wetlands, archeological or historic resources(s) state and federal threatened or endangered species, etc., (3) complying with all federal, state, and local laws, and obtaining all required and necessary permits and approvals

6. If the permittee impacts a legally protected/regulated resource, permittee shall be responsible for all costs associated with such impact, including, but not limited to all costs of mitigation and rehabilitation, and shall indemnify, and hold ODOT harmless for such impacts and be responsible and liable to ODOT for any associated costs or claims that ODOT may have.

APPROVED BY:

District 13, Permit Specialist — DATE: 3/10/08

District 13 Manager — DATE: 2/27/08

Permittee DANIEL HEATH — DATE: 3/3/08

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SALEM, OREGON

Oregon Department of Transportation

APPLICATION AND PERMIT TO OCCUPY OR PERFORM OPERATIONS UPON A STATE HIGHWAY

See Oregon Administrative Rule, Chapter 734, Division 55

TEMPORARY PERMIT NUMBER: 15M35805
CLASS: 5 KEY #:

GENERAL LOCATION

HIGHWAY NAME AND ROUTE NUMBER: Ukiah/Hilgard Hwy OR244
HIGHWAY NUMBER: 341
COUNTY: Union
BETWEEN OR NEAR LANDMARKS: Under Bear Creek Bridge #18657
HWY. REFERENCE MAP: 5B-36-6
DESIGNATED FREEWAY: ☐ YES ☑ NO
IN U.S. FOREST: ☐ YES ☑ NO

APPLICANT NAME AND ADDRESS:
Dan Heath
55959 Hwy 244
La Grande, Oregon 97850
(541)805-1225

PURPOSE OF APPLICATION
(TO CONSTRUCT/OPERATE/MAINTAIN)

☐ POLE LINE — TYPE — MIN. VERT. CLEARANCE
☐ BURIED CABLE — TYPE
☐ PIPE LINE — TYPE
☐ NON-COMMERCIAL SIGN — FEE AMOUNT
☑ MISCELLANEOUS OPERATIONS AND/OR FACILITIES AS DESCRIBED BELOW

BOND REQUIRED: ☐ YES ☑ NO (REFERENCE: OAR 734-55-035(2)) — AMOUNT OF BOND:
INSURANCE REQUIRED: ☐ YES ☑ NO (REFERENCE: OAR 734-55-035(1)) — SPECIFIED COMP. DATE: 30-Sep-2008

DETAIL LOCATION OF FACILITY (For more space attach additional sheets)

MILE POINT	TO	MILE POINT	ENGINEERS STATION	TO	ENGINEERS STATION	SIDE OF HWY OR ANGLE OF CROSSING	DISTANCE FROM CENTER OF PVMT	DISTANCE FROM R/W LINE	BURIED CABLE OR PIPE DEPTH/VERT.	BURIED CABLE OR PIPE SIZE AND KIND	SPAN LENGTH
42.58		42.58	278+58		278+58						

DESCRIPTION AND LOCATION OF NON-COMMERCIAL SIGNS OR MISCELLANEOUS OPERATIONS FACILITIES

Temporarily lay aluminum pipe under Bear Creek Bridge #18657. Pipe can be in place from May 1, 2008 until September 30, 2008. This permit can be renewed on a year to year basis.

SPECIAL PROVISIONS (FOR MORE SPACE ATTACH ADDITIONAL SHEETS)

TRAFFIC CONTROL REQUIRED: ☑ YES[OAR 734-55-025(6)] ☐ NO

OPEN CUTTING OF PAVED OR SURFACED AREAS ALLOWED? ☐ YES[OAR 734-55-100(2)] ☑ NO[OAR 734-55-100(1)]

- **AT LEAST 48 HOURS BEFORE BEGINNING WORK, THE APPLICANT OR HIS CONTRACTOR SHALL NOTIFY THE DISTRICT REPRESENTATIVE AT TELEPHONE NUMBER:** 541-963-8406 **when pipe has been placed and when removed OR FAX A COPY OF THIS PAGE TO THE DISTRICT OFFICE AT:** 541-963-0249 **SPECIFY TIME AND DATE IN THE SPACE BELOW.**
- **A COPY OF THIS PERMIT AND ALL ATTACHMENTS SHALL BE AVAILABLE AT THE WORK AREA DURING CONSTRUCTION.**
- **ORS 757.54 TO 757.571 REQUIRES EXCAVATORS TO LOCATE AND PROTECT ALL EXISTING UNDERGROUND UTILITIES. YOU MAY BE HELD LIABLE FOR DAMAGES. CALL FOR UTILITY LOCATES. *CALL BEFORE YOU DIG. 1-800-332-2344***

COMMENTS - ODOT USE ONLY

1. Comply with all terms of the attached LAND USE AGREEMENT.
2. This is a temporary permit for permittee to lay an aluminum pipe on state right of way under Bear Creek Bridge #18657 on Hwy 341 (OR244) for Irrigation. This permit is valid from May 1, 2008 until September 30, 2008. This permit can be renewed on a year to year basis.

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SALEM, OREGON

COPY

IF THE PROPOSED APPLICATION WILL AFFECT THE LOCAL GOVERNMENT, THE APPLICANT SHALL ACQUIRE THE LOCAL GOVERNMENT OFFICIAL'S SIGNATURE BEFORE ACQUIRING THE DISTRICT MANAGER'S SIGNATURE.

LOCAL GOVERNMENT OFFICIAL SIGNATURE		TITLE	DATE
X			
APPLICANT	APPLICATION DATE	TITLE	TELEPHONE NO
X	3/3/08	OWNER	
When this application is approved by the Department, the applicant is subject to, accepts and approves the terms and provisions contained in the attached and the terms of Oregon Administrative Rules, Chapter 734, Division 55, which by this reference made a part of this permit		DISTRICT MANAGER OR REPRESENTATIVE	APPROVAL DATE
		X	2/27/08

Laura A. Schroeder
Licensed in Oregon, Idaho, Nevada and Washington

V. Scott Borison, Ph.D.
Certified Legal Manager

Daryl N. Cole
Office Manager

SCHROEDER
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Licensed in Oregon and Nevada

Colm Moore
Licensed in Oregon and Nevada

Therese A. Ure
Licensed in Nevada

Wyatt E. Rolfe
Licensed in Oregon and Nevada

March 14, 2008

VIA FACSIMILE & US MAIL

Oregon Water Resources Department
ATTN: Herb Mosgar
725 Summer Street N.E. Suite A
Salem, OR 97301-4172
Fax: (503) 986-0901

RE: Daniel Heath
Application G-17016

Dear Mr. Mosgar:

Enclosed please find a Land Use Agreement between the Oregon Department of Transportation ("ODOT") and Mr. Heath, as well as a Permit to Occupy or Perform Operations Upon a State Highway. Please incorporate these documents into Mr. Heath's original application.

At this time we are unaware of any other items that are needed to complete this application. We look forward to receiving the Department's Initial Review as soon as it is completed.

Very truly yours,

SCHROEDER LAW OFFICES, P.C.

Cortney D. Duke

Cortney D. Duke

TJJ:tjj

Enclosures

cc: Client

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1915 NE 39th AVE.
P.O. BOX 12527
PORTLAND, OR 97212-0527

SCHROEDER
LAW OFFICES, P.C

TELEPHONE (503) 281-4100
FAX (503) 281-4600
WWW.WATER-LAW.COM

To: Herb Mosgar (Business Fax) FAX: +1 (503) 986-0901

From: Katherine Thomas Date/Time: 3/14/2008 11:32:59 AM

Paralegal

Telephone: (503) 281-4100 Return Fax: (503) 281-4600

Subject: Daniel Heath, Application G-17016

Pages: 5

If you have problems receiving this FAX, please call (503) 281-4100

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Cortney D. Duke

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TJJ:tjj

Enclosures

cc: Client

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13M35805

Oregon
Theodore R. Kulongoski, Governor

Department of Transportation
District 13
3014 Island Avenue
La Grande, OR 97850
(541) 963-8406
FAX (541) 963-0249

LAND USE AGREEMENT

BETWEEN: Oregon Department of Transportation,
and

Dan Heath
55959 Hwy 244
La Grande, Oregon 97850

COUNTY: Union
CITY: La Grande
TAX LOT: T2S R46E S34, 2300
RW MAP NO: 05B-36-06
STATION NO: 278+58

HIGHWAY NO: 341 ROUTE NO: 244
HIGHWAY: Ukiah/Hilgard Highway
MILEPOST: 42.58

Permission to use property, under the jurisdiction of the State of Oregon, by and through the Department of Transportation (ODOT), hereinafter referred to as "State", consisting of:
Tax Lot – **T03S R36 TL700**.

Permission to use this property hereinafter referred to as "premises" to temporarily lay aluminum pipe for irrigation on State Right of Way under Bear Creek Bridge #18657.

Purpose is hereby granted to the undersigned permittee for the period from 05/01/2008, through 09/30/2008 and thereafter on a year to year to year basis.

SUBJECT TO THE FOLLOWING CONDITIONS:

1. Permittee agrees to reimburse the State for the costs for acquiring; replacing damaged or moved features which were present on the premises prior to this permit. No use of premises shall cause damage to existing structure on premises.

2. Premises shall not be used for the placement of: (1) any advertising sign nor; (2) buildings or structures of any type. Premises shall not be used as a place for the storage, keeping, buying, selling, dismantling or other processing of any junk, scrap, junked motor vehicles or parts thereof, debris, trash, waste or other such materials, or toxic or hazardous materials. Nor shall any objectionable or unlawful use be made thereof. In the event of violation of any of the above conditions, Permittee shall be solely responsible for the removal or restoration costs of the premises and this Permit shall become null and void.

3. State shall have the right to retake possession of premises without written notice at any time such action may appear to State to be in the public interest and such repossession by State shall be without liability for injury or damage of any nature whatsoever to permittee. This permit may be terminated by the State with (10) days notice. Permittee may also terminate this permit with (10) days notice. In either event the permittee shall clean up area, removing any materials which may have been piled or stored and shall leave the premises in a clean and sightly condition.

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Nothing in this Permit shall be construed to give Permittee an interest in premises other than the right of possession as provided herein.

4. By acceptance of this permit and the exercise of the right granted herein, Permittee agrees to indemnify and hold harmless the State of Oregon, by and through its Department of Transportation, the members thereof, its officers, employees and agents, from and against all damages, claims, demands, suits actions or cause of suit or action resulting from or cause of, any damage to property or injury or death of any person arising out of the occupancy and use of premises by permittee, their heirs and invitees.

5. Permittee shall be responsible and liable for (1) investigating presence/absence of any legally protected or regulated environmental resource(s) in the action area; (2) determining any and all restrictions or requirements that relate to the proposed actions, and complying with such, including but not limited to those relating to hazardous material(s), water quality constraints, wetlands, archeological or historic resources(s) state and federal threatened or endangered species, etc., (3) complying with all federal, state, and local laws, and obtaining all required and necessary permits and approvals.

6. If the permittee impacts a legally protected/regulated resource, permittee shall be responsible for all costs associated with such impact, including, but not limited to all costs of mitigation and rehabilitation, and shall indemnify, and hold ODOT harmless for such impacts and be responsible and liable to ODOT for any associated costs or claims that ODOT may have.

APPROVED BY:

_____ **DATE:** 3/10/08
District 13, Permit Specialist

_____ **DATE:** 2/27/08
District 13 Manager

_____ **DATE:** 3/3/08
Permittee DANIEL HEATH

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Oregon Department of Transportation

APPLICATION AND PERMIT TO OCCUPY OR PERFORM OPERATIONS UPON A STATE HIGHWAY

See Oregon Administrative Rule, Chapter 734, Division 55

TEMPORARY PERMIT NUMBER: 13M35805
CLASS: 5 KEY #

GENERAL LOCATION

HIGHWAY NAME AND ROUTE NUMBER: Ukiah/Hilgard Hwy OR244
HIGHWAY NUMBER: 341
COUNTY: Union
BETWEEN OR NEAR LANDMARKS: Under Bear Creek Bridge #18657
HWY. REFERENCE MAP: 5B-36-6
DESIGNATED FREEWAY: ☐ YES ☑ NO
IN U.S. FOREST: ☐ YES ☑ NO

APPLICANT NAME AND ADDRESS
Dan Heath
55959 Hwy 244
La Grande, Oregon 97850
(541)805-1225

PURPOSE OF APPLICATION
(TO CONSTRUCT/OPERATE/MAINTAIN)

☐ POLE LINE — TYPE — MIN. VERT. CLEARANCE
☐ BURIED CABLE — TYPE
☐ PIPE LINE — TYPE
☐ NON-COMMERCIAL SIGN — FEE AMOUNT
☑ MISCELLANEOUS OPERATIONS AND/OR FACILITIES AS DESCRIBED BELOW

BOND REQUIRED: ☐ YES ☑ NO (REFERENCE: OAR 734-55-035(2)) — AMOUNT OF BOND
INSURANCE REQUIRED: ☐ YES ☑ NO (REFERENCE: OAR 734-55-035(1)) — SPECIFIED COMP. DATE: 30-Sep-2008

DETAIL LOCATION OF FACILITY (For more space attach additional sheets)

MILE POINT	TO	MILE POINT	ENGINEERS STATION	TO	ENGINEERS STATION	SIDE OF HWY OR ANGLE OF CROSSING	DISTANCE FROM CENTER OF PVMT	DISTANCE FROM R/W LINE	BURIED CABLE OR PIPE DEPTH/VERT.	BURIED CABLE OR PIPE SIZE AND KIND	SPAN LENGTH
42.58		42.58	278+58		278+58						

DESCRIPTION AND LOCATION OF NON-COMMERCIAL SIGNS OR MISCELLANEOUS OPERATIONS FACILITIES

Temporarily lay aluminum pipe under Bear Creek Bridge #18657. Pipe can be in place from May 1, 2008 until September 30, 2008. This permit can be renewed on a year to year basis.

SPECIAL PROVISIONS (FOR MORE SPACE ATTACH ADDITIONAL SHEETS)

TRAFFIC CONTROL REQUIRED
- ☑ YES[OAR 734-55-025(6)] ☐ NO

OPEN CUTTING OF PAVED OR SURFACED AREAS ALLOWED?
- ☐ YES[OAR 734-55-100(2)] ☑ NO[OAR 734-55-100(1)]

- **AT LEAST 48 HOURS BEFORE BEGINNING WORK, THE APPLICANT OR HIS CONTRACTOR SHALL NOTIFY THE DISTRICT REPRESENTATIVE AT TELEPHONE NUMBER: 541-963-8406 when pipe has been placed and when removed OR FAX A COPY OF THIS PAGE TO THE DISTRICT OFFICE AT: 541-963-0249 SPECIFY TIME AND DATE IN THE SPACE BELOW.**
- A COPY OF THIS PERMIT AND ALL ATTACHMENTS SHALL BE AVAILABLE AT THE WORK AREA DURING CONSTRUCTION.
- **ORS 757.54 TO 757.571 REQUIRES EXCAVATORS TO LOCATE AND PROTECT ALL EXISTING UNDERGROUND UTILITIES. YOU MAY BE HELD LIABLE FOR DAMAGES. CALL FOR UTILITY LOCATES. *CALL BEFORE YOU DIG. 1-800-332-2344***

COMMENTS - ODOT USE ONLY

1. Comply with all terms of the attached LAND USE AGREEMENT.
2. This is a temporary permit for permittee to lay an aluminum pipe on state right of way under Bear Creek Bridge #18657 on Hwy 341 (OR244) for Irrigation. This permit is valid from May 1, 2008 until September 30, 2008. This permit can be renewed on a year to year basis.

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X			
APPLICANT	APPLICATION DATE	TITLE	TELEPHONE NO.
X	3/3/08	OWNER	

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DISTRICT MANAGER OR REPRESENTATIVE: x
APPROVAL DATE: 2/27/08

For Local Government Use Only

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

This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the 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): _____.

☐ Land uses to be served by proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.)
If approvals have been obtained but all appeal periods have not ended, check "Being pursued".

Type of Land-Use Approval Needed (e.g. plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant, Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued
		☐ Obtained ☐ Denied	☐ Being pursued ☐ Not being pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet. —

Name: Craig E Vaira Title: Assistant Planner

Signature: _____ Phone: 963-1014 Date: 2-25-08

Government Entity: Union County Planning

Note to local government representative: *Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.*

Receipt for Request for Land Use Information

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SALEM, OREGON

Applicant name: _____

City or County: _____ Staff contact: _____

Signature: _____ Phone: _____ Date: _____

Oregon Water Resources Department
Land Use Information Form

THIS FORM IS NOT REQUIRED IF: 1) water is to be diverted, conveyed, and/or used only on federal lands; or 2) the application is for a water-right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and all of the following apply: a) only the place of use is proposed for change, b) there are no structural changes, c) the use of water is for irrigation, and d) the use is located in an irrigation district or exclusive farm-use zone.

Applicant Name: Daniel Heath

Mailing Address: 55959 Hwy. 244

City: La Grande State: OR Zip: 97850 Day Phone: 541-963-9283

This application is related to a Measure 37 claim. ☐ Yes ☑ No

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), or used. 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.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g. Rural Residential/RR-5)	Water to be:	Proposed Land Use:
3S	36E	14		700		☑ Diverted ☑ Conveyed ☑ Used	
3S	36E	15		700		☑ Diverted ☑ Conveyed ☑ Used	
3S	36E	22		700		☑ Diverted ☑ Conveyed ☑ Used	
3S	36E	23		700		☑ Diverted ☑ Conveyed ☑ Used	

List all counties and cities where water is proposed to be diverted, conveyed, or used. Union County, La Grande , OR

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department:

☑ Permit to Use or Store Water ☐ Water-Right Transfer ☐ Exchange of Water
☐ Allocation of Conserved Water ☐ Limited Water Use License
☐ Permit Amendment or Ground Water Registration Modification

Source of water: ☐ Reservoir/Pond ☑ Ground Water ☐ Surface Water (name) _____

Estimated quantity of water needed: 2.5 ☑ cubic feet per second ☐ gallons per minute ☐ acre-feet

Intended use of water: ☑ Irrigation ☐ Commercial ☐ Industrial ☐ Domestic for _____ household(s)
☐ Municipal ☐ Quasi-municipal ☐ Instream ☐ Other _____

Briefly describe: Water will be used to irrigate pasture grass hay, alfalfa and occasionally grain hay.

Note to applicant: *If the Land Use Information Form cannot be completed while you wait, please have a local government representative sign the receipt below and include it with the application filed with the Water Resources Department.*

Receipt for Request for Land Use Information

State of Oregon
Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301-1266

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