



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

KAWONU ACRES LLC
ATTN: DALE BERGEY
34033 MOUNT TOM DR
HARRISBURG, OR 97446

August 22, 2008

Reference: File G-16996

Dear Mr. Bergey:

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 application requested the use of 83.0 gallons per minute, which is 0.18 cubic foot per second (CFS), of water from Well 1 (LANE 67020) in Lingo Slough Basin for year-round wetland enhancement.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.
4. The Department has determined, based upon Oregon Administrative Rule (OAR) 690-009, that the proposed ground water use will have the potential for substantial interference with an unnamed tributary of Lingo Slough, and Amazon Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is not available in the amount requested during the period August 1 through August 31. If you believe you could make beneficial use even without the month of August and would like to pursue a limited permit which excludes the month of August, you may amend the season requested to January 1 through July 31 and September 1 through December 31.

5. The Department has determined, based upon OAR 690-009, that Well 1 (LANE 67020) will produce ground water from unconfined alluvium within a quarter mile of the banks of surface water and is presumed to be hydraulically connected to the surface water. Such hydraulically connected ground water is classified the same as the surface source under OAR 690-502-0240. The use of water from Well 1 (LANE 67020) in Lingo Slough Basin for year-round wetland enhancement is allowable under OAR 690-502-0090(1)(b), the Willamette Basin Program.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.18 CFS of water from Well 1 (LANE 67020) in Lingo Slough Basin for year-round wetland enhancement is not allowable, and it appears unlikely that you will be issued a permit. However, by providing additional information you may be able to pursue a limited permit. At this time, you must decide whether to proceed or to withdraw your application as described below.

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 \$150 processing charge per application.) To accomplish this you must notify the Department in writing by **Friday, September 5, 2008**. 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 do not have to notify the Department. 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:

1.Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the meter(s) in good working order. The permittee 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(s); provided however, where any meter is located within a private structure, the watermaster shall request access upon reasonable notice.
- 2. 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.
- 3. 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 report 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 report 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 report seven consecutive annual 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 the user to 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 reported 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 water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0859 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: Jeana Eastman, 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 read 'Jeana Eastman'.

Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-16996
WAB 2-114
POU 2-114
GW

APPLICATION FACT SHEET

Application File Number: G-16996

Applicant: KAWONU ACRES LLC

County: Lane

Watermaster: 2

Priority Date: January 18, 2008

Source: WELL 1 (LANE 67020) IN LINGO SLOUGH BASIN

Use: WETLAND ENHANCEMENT

Quantity: 0.18 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 3A LONG TOM R MISC

Point of Diversion or Well Location(s): NENE, SECTION 14, T16S, R5W, W.M.; 1110 FEET SOUTH AND 120 FEET WEST FROM NE CORNER, SECTION 14

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$
NW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 14
TOWNSHIP 16 SOUTH, RANGE 5 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 5, 2008

PUBLIC NOTICE DATE: Tuesday, August 26, 2008

30 DAY COMMENT DEADLINE DATE: Thursday, September 25, 2008

Mailing List for IR Copies

Application #G-16996

IR Date: August 22, 2008

Original mailed to applicant:

DALE BERGEY KAWONU ACRES LLC, 34033 MOUNT TOM DR, HARRISBURG, OR 97446

Copies sent to:

1. WRD - File # G-16996
2. WRD - Water Availability: Ken Stahr

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 2
4. Department of Agriculture

Caseworker: Jeana Eastman

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