



# 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**

VINEYARD HOLDINGS LLC  
ATTN: ALLEN HOLSTEIN  
PO BOX 280  
DUNDEE, OR 97115

August 1, 2008

Reference: File G-17046

Dear Mr. Holstein:

**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 proposed to use 0.28 cubic foot per second (CFS) from Well 1 (POLK 50658) in King Creek Basin, being 0.06 CFS for year-round commercial uses, 0.2 CFS for year-round pond maintenance for Eola Hills Reservoir constructed under Certificate 62251, and 0.28 CFS for irrigation use on 135.9 acres and supplemental irrigation use on 43.0 acres from March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 1 (POLK 50658) in King Creek Basin for commercial uses, pond maintenance and irrigation use is allowable under the Willamette Basin Program.
4. 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 690-009, that the proposed ground water use will not have the potential for substantial interference with any surface water source.

5. Your application requested a completion date of 2015. The Department requires completion of construction and complete application of the water to the use within 5 years from issuance of the permit under ORS 537.230.
6. An area proposed to be irrigated under this application appears to be currently covered by existing irrigation water right evidenced by Certificate of Water Right 28376, which conflicts with your application. Please see the **Conflict Resolution Information** section below for more information.
7. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

### **Summary of Initial Determinations**

**The use of 0.28 CFS from Well 1 (POLK 50658) in King Creek Basin, being 0.06 CFS for year-round commercial uses, 0.2 CFS for year-round pond maintenance for Certificate 62251, and 0.28 CFS for irrigation use on 135.9 acres and supplemental irrigation use on 43.0 acres from March 1 through October 31, is allowable during the full periods requested.**

**The maximum rate used shall not exceed 0.28 CFS.**

### **Conflict Resolution Information:**

According to Department records, there appears to be an existing irrigation water right evidenced by Certificate of Water Right 28376 covering a portion of the land proposed under this application. If you would like this application to be the primary right, the Department must receive a completed form authorizing cancellation of the existing right, a completed affidavit of diminution of the existing right to reduce it to supplemental use, a transfer of the existing right, or other means of dealing with the conflict between the existing right and the use proposed under this application.

If the Department issues a permit and you *have not* resolved the conflict, the new permit will be supplemental to the existing right, which will limit and/or jeopardize the water rights on the land as follows:

- If the existing right is found to have been forfeited, the use which is supplemental to such certificate may also be canceled.
- You may only use the supplemental right after the primary right becomes unavailable. The primary right must be exhausted first.
- The season of use for the supplemental irrigation will be limited to that of the primary right.

**Additional Information Required:**

Additional information is required to process your application. Please provide the following:

- The Department has determined additional fees are needed to continue processing your application. The Department must receive exam fees in the amount of \$200.00. Please include your application number on your check made out to the Oregon Water Resources Department. Your exam requirements consisted of:
 

Base fee .....	\$500.00
Up to 1 <sup>st</sup> CFS.....	\$200.00
Three additional uses.....	<u>\$600.00</u>
Total Exam Fee Required.....	\$1,300.00
Total Exam Fee Paid.....	\$1,100.00
  
- Please provide a new map showing the proposed 10.7 acres of primary irrigation in the NW of the SE Section 13, Township 6 South, Range 4 West, W.M. If you do not address this discrepancy, the total acreage for primary irrigation will be 125.2 acres.

**Please submit this information no later than Thursday, September 4, 2008.** If you are unable to submit the information listed above, you may request an administrative hold for up to an additional 180 days. You must submit the request in writing, stating how much more time you will need and why you need additional time. If an administrative hold is granted, your application will not be processed further until the requested information is received or the extended deadline has passed.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a proposed final order recommending denial of the application.

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.

Because of these favorable determinations, the Department can now move your application to the next phase of the water rights application review process where public interest factors will be evaluated.

**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.

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, August 15, 2008**. For your convenience you may use the enclosed "STOP PROCESSING" form.

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. The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations 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 restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. 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.

- 3. The wells shall produce ground water only from the marine sediments ground water reservoir below the basalts of the Columbia River Basalt Group.
- 4. 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 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](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 503-986-0815 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: Joel Plahn, 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 'Joel Plahn', written in a cursive style.

Joel Plahn  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17046  
GW

# APPLICATION FACT SHEET

Application File Number: G-17046

Applicant: VINEYARD HOLDINGS LLC

County: POLK

Watermaster: 16

Priority Date: APRIL 24, 2008

Source: WELL 1 (POLK 50658) IN KING CREEK BASIN

Use: COMMERCIAL USES, POND MAINTENANCE, IRRIGATION USE ON 135.9 ACRES, AND SUPPLEMENTAL IRRIGATION USE ON 43.0 ACRES

Quantity: 0.28 CUBIC FOOT PER SECOND (CFS) BEING 0.28 CFS FOR IRRIGATION USE, 0.06 CFS FOR COMMERCIAL USES AND 0.2 CFS FOR POND MAINTENANCE,

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 17 SPRING VALLEY CR & MISC

Well Location(s): SWSW, SECTION 13, T6S, R4W, W.M.; 1180 FEET NORTH AND 1230 FEET EAST FROM SW CORNER, SECTION 13

Place of Use:

NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  COMMERCIAL USES  
NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  9.9 ACRES IRRIGATION  
NE  $\frac{1}{4}$  SW  $\frac{1}{4}$  14.2 ACRES SUPPLEMENTAL IRRIGATION  
NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  COMMERCIAL USES  
NW  $\frac{1}{4}$  SW  $\frac{1}{4}$  21.5 ACRES IRRIGATION  
SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  COMMERCIAL USES & POND MAINTENANCE  
SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  36.2 ACRES IRRIGATION  
NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  COMMERCIAL USES  
NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  10.9 ACRES SUPPLEMENTAL IRRIGATION  
NW  $\frac{1}{4}$  SE  $\frac{1}{4}$  10.7 ACRES IRRIGATION  
SECTION 13

NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  COMMERCIAL USES  
NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  32.3 ACRES IRRIGATION  
NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  5.1 ACRES SUPPLEMENTAL IRRIGATION  
SECTION 23

NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  COMMERCIAL USES & POND MAINTENANCE  
NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  25.3 ACRES IRRIGATION  
NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  12.8 ACRES SUPPLEMENTAL IRRIGATION  
SECTION 24

TOWNSHIP 6 SOUTH, RANGE 4 WEST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 15, 2008**

**PUBLIC NOTICE DATE: Tuesday, August 5, 2008**

**30 DAY COMMENT DEADLINE DATE: Thursday, September 4, 2008**

# Mailing List for IR Copies

Application #G-17046

IR Date: August 1, 2008

## Original mailed to applicant:

VINEYARD HOLDINGS LLC, PO BOX 280, DUNDEE, OR 97115

## Copies sent to:

1. WRD - File # G-17046
2. WRD - Water Availability: Ken Stahr

## IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 16
4. Department of Agriculture

## Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

5. William Kness, 2137 19<sup>th</sup> Ave Forest Grove, OR 97116
6. Urstadt, Eric, CWRE #385, 2137 19<sup>th</sup> Ave, Forest Grove OR 97116

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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Caseworker: Joel Plahn

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