



# 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

September 12, 2008

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

CITY OF SISTERS  
PO BOX 39; 150 N FIR ST  
SISTERS OR 97759

Reference: File [G-17058](#)

## INITIAL REVIEW

**THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE DURING PROCESSING**

Dear Applicant:

This letter is to inform you that processing of your water-use permit application has begun, and to describe your options. In determining whether an application may be approved, the Department must consider the factors listed below, all of which must be favorable if the proposed use is to be allowed. Based on the information you supplied, the Department has made the following initial determinations:

1. The application proposed the use of 2.0 cubic feet per second (CFS) of water, with a maximum of 604.6 acre-feet (AF) per year, from Well 1 (DESC 3023), Well 2 (DESC 1034), Well 3 (DESC 57902), and Well 4 in Whychus Creek Basin for year-round municipal use.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 1 (DESC 3023), Well 2 (DESC 1034), Well 3 (DESC 57902), and Well 4 in Whychus Creek Basin for municipal use is allowable under the Deschutes Basin Program.
4. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.
5. The Department has determined, based upon OAR 690-09, that the proposed ground water source is hydraulically connected to Whychus Creek, and will have the potential for substantial interference with surface water. Therefore, in accordance with OAR 690-410-0070(1) and 690-400-0010(11)(a), surface water availability and public-interest considerations related to the surface-water source must be considered.
6. Surface water is not available at any time of the year due to senior water rights on Whychus Creek and downstream waters.
7. The proposed use of hydraulically-connected ground water with the potential for substantial interference is not allowable in the Deschutes Basin from April 15 through September 30 of each year (OAR 690-33-120(2)(b)).

8. The mainstem Deschutes River is a State Scenic Waterway. The proposed use will measurably reduce scenic waterway flows as defined in ORS 390.835.
9. Because the proposed wells, located in the Deschutes Ground Water Study Area, have the potential for substantial interference and will interfere with scenic waterway flows, by law, the Department is required to deny your application unless you provide mitigation. 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). Those rules provide a process under which applicants may mitigate for the impact their proposed use would have on surface water flows.
10. The Department has determined your mitigation obligation is 241.8 AF annually. The required mitigation is based on the use of 604.6 AF per year. Calculation of the mitigation obligation is based on a consumptive-use factor of 40%.
11. The Department has determined that mitigation for the proposed use must be located in the Whychus Creek Zone of Impact.
12. 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 Review**

The use of 2.0 CFS, with a maximum of 604.6 AF per year, from Well 1 (DESC 3023), Well 2 (DESC 1034), Well 3 (DESC 57902), and Well 4 in Whychus Creek Basin for year-round municipal use is not allowable. However, if you provide sufficient mitigation water to offset the proposed use, it may be allowed under OAR 690-505-0610.

#### **Additional Information Required:**

Please provide documentation that demonstrates the proposed use complies with the local acknowledged comprehensive land-use plan, or that you are actively pursuing approval from the Deschutes County Planning Department. If you demonstrate you are pursuing approval, the Department can continue to process the application and issue a Proposed Final Order and a Final Order even when land use approval has not been obtained. However, before a permit will be issued the Department must receive documentation from the relevant planning jurisdiction that either 1) the proposed use is allowed outright or 2) that an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.

#### **Mitigation Obligation Options:**

To satisfy your mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 241.8 qualifying mitigation credits from an individual or mitigation bank. If you are interested in obtaining mitigation credits, you may want to contact me 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 completed 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 Laura Snedaker (503.986.0884) for

further information on mitigation projects, forms, and specific requirements to be included in your proposal.

Mitigation credits must be obtained and/or a mitigation project must be completed before a permit can be issued.

**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 or by fax by Friday, September 26, 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 do anything at this time. 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:

**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 totalizing flow meter must be installed and maintained 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; where the meter is located within a private structure, the watermaster shall request access upon reasonable notice.

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.

**Ground Water Mitigation Conditions:**

1. Mitigation Obligation: 241.8 acre-feet of mitigation water in the Whychus Creek Zone of Impact (located anywhere in the Whychus Creek Basin above river mile 16).
2. Mitigation Source: Obtain 241.8 mitigation credits, or suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5).
3. Mitigation water must be legally protected instream in the Whychus Creek Zone of Impact 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.
4. 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.
5. 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 maintenance and 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.
6. 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).

**Scenic Waterway Condition**

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 reduced subsequently. 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.

**Water Management and Conservation Plan Condition**

If incremental mitigation is proposed, the permittee shall submit a Water Management and Conservation Plan consistent with OAR Chapter 690, Division 86 within five years of permit issuance or before use of the second increment of water development occurs, whichever is sooner. The Director may approve an extension of this time line to complete the required Water Management and Conservation Plan. The time line for submittal of a plan under this permit does not alter the time lines for submittal of a plan under any other order of the Department.

**If you have questions:**

This Initial Review was produced by Jeana Eastman. If you have any questions about any of the information contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0859 or Jeana.M.Eastman@ wrd.state.or.us. Please have your application number available if you call. 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, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

Sincerely,



Jeana Eastman  
Water Rights Application Caseworker

enclosures: Stop Processing Request Form; Response to Notice of Mitigation Obligation; and Deschutes Mitigation Rules

G-17058  
WAB 5-70754  
POU 5-70754  
GW

# Application Fact Sheet

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Mail to: Applicant, Watermaster, District Biologist (ODFW)

Application Number: G-17058

Applicant: CITY OF SISTERS, PO BOX 39, SISTERS OR 97759

County: DESCHUTES

Watermaster: District 11

Priority Date: MAY 27, 2008

Source: WELL 1 (DESC 3023), WELL 2 (DESC 1034), WELL 3 (DESC 57902), AND WELL 4 IN WHYCHUS CREEK BASIN

Use: MUNICIPAL USES

Quantity: 2.0 CUBIC FEET PER SECOND, WITH A MAXIMUM OF 604.6 ACRE-FEET PER YEAR

Basin Name & Number: Deschutes, #5

Point of Appropriation:

	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (DESC 3023)	15 S	10 E	WM	9	NW SW	2950 FEET SOUTH AND 650 FEET EAST FROM NW CORNER, SECTION 9
WELL 2 (DESC 1034)	15 S	10 E	WM	5	NW SW	1335 FEET NORTH AND 1210 FEET EAST FROM SW CORNER, SECTION 5
WELL 3 (DESC 57902)	15 S	10 E	WM	4	SE NW	1890 FEET SOUTH AND 2325 FEET EAST FROM NW CORNER, SECTION 4
WELL 4	15 S	10 E	WM	8	SW NW	230 FEET NORTH AND 1125 FEET EAST FROM SW CORNER, SECTION 8

Place of Use: WITHIN THE CITY OF SISTERS SERVICE BOUNDARY, INCLUDING:

Twp	Rng	Mer	Sec	Q-Q
15 S	10 E	WM	4	NE NW
15 S	10 E	WM	4	SW NW
15 S	10 E	WM	4	SE NW
15 S	10 E	WM	4	NE SW
15 S	10 E	WM	4	NW SW
15 S	10 E	WM	4	SW SW
15 S	10 E	WM	4	SE SW
15 S	10 E	WM	4	NE SE
15 S	10 E	WM	4	NW SE
15 S	10 E	WM	4	SW SE
15 S	10 E	WM	4	SE SE
15 S	10 E	WM	5	SW NE
15 S	10 E	WM	5	SE NE
15 S	10 E	WM	5	SW NW
15 S	10 E	WM	5	SE NW

<b>Twp</b>	<b>Rng</b>	<b>Mer</b>	<b>Sec</b>	<b>Q-Q</b>
15 S	10 E	WM	5	NE SW
15 S	10 E	WM	5	NW SW
15 S	10 E	WM	5	SW SW
15 S	10 E	WM	5	SE SW
15 S	10 E	WM	5	NE SE
15 S	10 E	WM	5	NW SE
15 S	10 E	WM	5	SW SE
15 S	10 E	WM	5	SE SE
15 S	10 E	WM	6	NE SE
15 S	10 E	WM	6	NW SE
15 S	10 E	WM	6	SW SE
15 S	10 E	WM	6	SE SE
15 S	10 E	WM	8	NE NE
15 S	10 E	WM	8	NW NE
15 S	10 E	WM	8	SE NE
15 S	10 E	WM	8	NE NW
15 S	10 E	WM	9	NE NE
15 S	10 E	WM	9	NW NE
15 S	10 E	WM	9	SW NE
15 S	10 E	WM	9	SE NE
15 S	10 E	WM	9	NE NW
15 S	10 E	WM	9	NW NW
15 S	10 E	WM	9	SW NW
15 S	10 E	WM	9	SE NW
15 S	10 E	WM	9	NE SE
15 S	10 E	WM	9	SE SE

Public Notice Date: Tuesday, September 16, 2008

14-day Stop Processing Deadline: Friday, September 26, 2008

End of 30-day Comment Period: Thursday, October 16, 2008

# Mailing List for IR Copies

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Application: [G-17058](#)

IR Date: September 12, 2008

**Original mailed to:**

Applicant: [CITY OF SISTERS](#)  
[PO BOX 39](#)  
[SISTERS OR 97759](#)

Copies Mailed
by: _____ (STAFF)
on: _____ (DATE)

**Copies sent to:**

1. WRD - File [G-17058](#)
2. WRD - Water Availability: Ken Stahr
3. WRD - Laura Snedaker
4. DRC - Scott McCaulou

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

*(NOTE: please send only one copy per office, even if there is more than one name on the list)*

1. Watermaster District 11
2. ODFW District Biologist: Amy Stuart & Brett Hodgson
3. ODFW: Rick Kepler
4. Columbia River Intertribal Fish Commission
5. US Fish & Wildlife
6. NW Power Planning Council
7. DEQ: Eric Nigg & Bonnie Lamb, Eastern Region
8. DOA: Salem: Paul Meeseles & Jim Johnson
9. OPRD: Jan Houck & John Potter
10. DSL: Nancy Pustis (Bend)

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

Sussman, Adam, GSI Water Solutions, 1600 Western Blvd., Ste 240, Corvallis OR 97333

**Affected Landowners:**

1. Deschutes County, 117 NW Lafayette Ave, Bend OR 97701
2. Dorro C Sokol, PO Box 969, Sisters OR 97759
3. Sister School Dist #6, 115 N Locust St, Sisters OR 97759
4. Dutch Pacific Properties LP, PO Box 3500, PMB 303, Sisters OR 97759

Caseworker: jme



**RESPONSE TO NOTICE OF MITIGATION OBLIGATION  
MUNICIPAL OR QUASI-MUNICIPAL INCREMENTAL DEVELOPMENT PLAN**

Municipal or Quasi-Municipal ground water permit applicants may satisfy a mitigation obligation by incrementally obtaining and providing mitigation to coincide with the incremental development of the permit, provided mitigation is provided prior to each stage of development of the permit, in accordance with the standards under OAR 690-505-0610(2)-(5). A mitigation obligation may be satisfied by obtaining mitigation credits, providing for implementation of a mitigation project, or both (OAR 690-505-0610(2)). Please read and complete this acknowledgment of mitigation obligation and return it to the Department at the address above.

Applicant(s): **CITY OF SISTERS**

Applicant's agent (*if applicable*): ADAM SUSSMAN

Application number: **G-17058**

Proposed Use: **MUNICIPAL USES**

Period of Use requested: **YEAR-ROUND**

Rate requested: **2.0 CUBIC FEET PER SECOND**

Volume requested: **604.6 ACRE-FEET**

Mitigation Obligation: **241.8 ACRE-FEET**

Zone of Impact: **Whychus Creek Zone of Impact**

**Please read and initial the following statements:**

\_\_\_\_\_ We intend to provide incremental mitigation.

\_\_\_\_\_ We understand that mitigation must be provided prior to each stage of development of the permit and that the mitigation must meet the requirements of OAR 690-505-0610(2)-(5).

\_\_\_\_\_ We understand that the first increment of mitigation must be obtained, submitted to the Department and legally protected instream prior to a permit being issued.

\_\_\_\_\_ We understand that after receiving the water right permit, I (we) may not increase water use without providing the corresponding required mitigation.

\_\_\_\_\_ We understand that we will be required to submit a new or update Water Management and Conservation Plan under OAR Chapter 690, Division 86 within 2 years of the Department issuing a permit.

\_\_\_\_\_ We understand that may we modify the incremental development plan and related mitigation obligation only with prior written Departmental approval.

(over)

Please estimate the time schedule for development of the water right permit and the proposed source of mitigation that may be obtained and used prior to each stage of development (this proposed development schedule must describe 100% of the requested volume).

For the first increment of permit development we will need approximately \_\_\_\_\_ acre-feet of the \_\_\_\_\_ acre-feet requested in the application. The first increment of mitigation will be required by \_\_\_\_\_ (date).

The proposed source of mitigation water for this increment of 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:

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By \_\_\_\_\_(approximate year), for the second increment of permit development, I (we) will need approximately \_\_\_\_\_ additional acre-feet of the \_\_\_\_\_ total volume requested in the application.

The proposed mitigation source for this increment of 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:

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**Please complete a section for each subsequent stage of Incremental Development beyond the first two using the additional page below.**

Applicant \_\_\_\_\_ or Applicant's Agent \_\_\_\_\_

Date \_\_\_\_\_

Mail to: Attn: Jeana Eastman  
Oregon Water Resources Department  
725 Summer St NE Suite A  
Salem OR 97301-1266

**Incremental Development beyond increments one and two:**

Application \_\_\_\_\_

Applicant: \_\_\_\_\_

By \_\_\_\_\_(approximate year), for the \_\_\_\_\_ increment of permit development, we will need approximately \_\_\_\_\_ additional acre-feet of the \_\_\_\_\_ total volume requested in the application.

The proposed mitigation source for this increment of 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:

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By \_\_\_\_\_(approximate year), for the \_\_\_\_\_ increment of permit development, I (we) will need approximately \_\_\_\_\_ additional acre-feet of the \_\_\_\_\_ total volume requested in the application.

The proposed mitigation source for this increment of 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:

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**ATTACH ADDITIONAL PAGES AS NECESSARY**

Mail to:            Attn: Jeana Eastman  
                     Oregon Water Resources Department  
                     725 Summer St NE Suite A  
                     Salem OR 97301-1266