



# 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**

October 10, 2008

STEVEN AND LESLIE SKELTON  
12379 N TALL GRASS DR  
ORO VALLEY, AZ 85755

KATHERINE HART  
7113 NW 25<sup>th</sup> AVE  
VANCOUVER, WA 98665

GRACE GUYER  
1000 SW VISTA AVE, APT 13B  
PORTLAND, OR 97205

NELSON CABIN TRUST  
11101 TANGLEWOOD DR  
AUBURN, CA 95603-5806

RONALD ESTES  
1825 NE CLIFF DR  
BEND, OR 97701

CHARLES CLEVELAND  
1945 NE DESERT CT  
BEND, OR 97701

USDA FOREST SERVICE  
1230 NE 3<sup>RD</sup> ST, STE A-262  
BEND, OR 97701

Reference: File S-86965

Dear Applicants:

### **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 the use of 0.03 cubic foot per second (CFS) of water, being 0.005 CFS each for human consumption use for six households from May 1 through November 30, from Elk Lake, a tributary of Lava Lake.

2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Elk Lake, a tributary of Lava Lake, for human consumption is allowable under the Deschutes Basin Program.
4. Surface water is not available in the amount requested during the entire period requested. However, you have provided documentation indicating that no alternate water source is available, and that denial of the application would cause loss of reasonable expectation for use of your property. Under certain circumstances, the Department may find that a proposed use is in the public interest even when the source of water is over-appropriated. At the next stage of processing, the Department will likely find that the proposed use is in the public interest despite water availability limitations.
5. The standard allowable rate of water necessary for human consumption use for one household is limited to 500 gallons per day. If the application is approved, the rate allowed will be further limited to this amount.
6. The proposed use is located above the Deschutes Scenic Waterway, as designated under ORS 390.826.
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 Allowable Water Use**

**Because not all items above are favorable, the use of 0.03 CFS, being 0.005 CFS each, further limited to 500 gallons per day per household, for human consumption for six households (indoor use only: cooking, drinking, sanitation) from May 1 through November 30 is not allowable. However, the Department may find that the proposed use is in the public interest.**

**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.

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

Additional exam fees are required to process your application. The total exam fee is \$1500, and the Department has received a total of \$700; please provide the additional fee of \$800.

Please note, prior to permit issuance \$300.00 for recording fees must be received.

| Category                                    | Fee           |
|---------------------------------------------|---------------|
| Base                                        | \$500         |
| Up to 1 CFS                                 | \$200         |
| Four additional points of diversion @ \$200 | \$800         |
| <b>TOTAL EXAM FEES:</b>                     | <b>\$1500</b> |

**Please submit this information no later than Thursday, November 13, 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.

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, October 24, 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 or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month, and shall submit a report which includes the recorded water use measurements to the Department annually or more frequently

as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.

- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
2. Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right or as those quantities may be subsequently reduced.
  3. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

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 503-986-0859 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 'J. Eastman'.

Jeana Eastman  
Water Right Application Caseworker

enclosures:    Application Process Description and Stop Processing Request Form

S-86965  
WAB 5-199  
POU 5-199  
GW

# APPLICATION FACT SHEET

Application File Number: S-86965

Applicants: STEVEN AND LESLIE SKELTON, et al

County: Deschutes

Watermaster: 11

Priority Date: September 7, 2007

Source: ELK LAKE, A TRIBUTARY OF LAVA LAKE

Use: HUMAN CONSUMPTION FOR SIX HOUSEHOLDS

Quantity: 0.03 CUBIC FOOT PER SECOND (CFS), BEING 0.005 CFS FOR EACH HOUSEHOLD

Basin Name & Number: Deschutes, #5

Stream Index Reference: Volume 1 DESCHUTES R MISC

Point of Diversion or Well Location(s):

POD A: NWSW, SECTION 32, T18S, R8E, W.M.;2550 FEET NORTH AND 250 FEET EAST FROM SW CORNER, SECTION 32

POD B: NWSW, SECTION 32, T18S, R8E, W.M.;2350 FEET NORTH AND 175 FEET EAST FROM SW CORNER, SECTION 32

POD C: SWNW, SECTION 32, T18S, R8E, W.M.;2740 FEET NORTH AND 265 FEET EAST FROM SW CORNER, SECTION 32

POD D: SWNW, SECTION 32, T18S, R8E, W.M.;3400 FEET NORTH AND 500 FEET EAST FROM SW CORNER, SECTION 32

POD E: SWNW, SECTION 32, T18S, R8E, W.M.;3425 FEET NORTH AND 490 FEET EAST FROM SW CORNER, SECTION 32

Place of Use:

SW  $\frac{1}{4}$  NW  $\frac{1}{4}$   
NW  $\frac{1}{4}$  SW  $\frac{1}{4}$   
SECTION 32  
TOWNSHIP 18 SOUTH, RANGE 8 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 24, 2008**

**PUBLIC NOTICE DATE: Tuesday, October 14, 2008**

**30 DAY COMMENT DEADLINE DATE: Thursday, November 13, 2008**

# Mailing List for IR Copies

Application #S-86965

IR Date: October 10, 2008

## Original mailed to applicants:

STEVEN AND LESLIE SKELTON  
12379 N TALL GRASS DR  
ORO VALLEY, AZ 85755

KATHERINE HART  
7113 NW 25<sup>th</sup> AVE  
VANCOUVER, WA 98665

GRACE GUYER  
1000 SW VISTA AVE, APT 13B  
PORTLAND, OR 97205

NELSON CABIN TRUST  
11101 TANGLEWOOD DR  
AUBURN, CA 95603-5806

RONALD ESTES  
1825 NE CLIFF DR  
BEND, OR 97701

CHARLES CLEVELAND  
1945 NE DESERT CT  
BEND, OR 97701

USDA FOREST SERVICE  
1230 NE 3<sup>RD</sup> ST, STE A-262  
BEND, OR 97701

## Copies sent to:

1. WRD - File # S-86965
2. WRD - Water Availability: Ken Stahr

## IR, Map, and Fact Sheet Copies sent VIA EMAIL:

3. WRD - Watermaster # 11
4. ODFW:
5. DEQ:

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

6. Department of Agriculture
7. Columbia River Intertribal Fish Commission, Julie Carter,  
729 NE Oregon St, Ste 200, Portland OR 97232
8. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
9. NW Power Planning Council, Fish & Wildlife Division, Karl Weist  
851 SW Sixth Ave, Ste 1020, Portland OR 97204
10. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson  
PO Box 638, 73239 Confederated Way, Pendleton, OR 97801
11. National Marine Fisheries Service, Spencer Hovekamp  
3502 Hwy 30, La Grande, OR 97850
12. State Parks

## Copies Mailed

By: \_\_\_\_\_  
(SUPPORT STAFF)

on: \_\_\_\_\_  
(DATE)

Caseworker: Jeana Eastman

\\COPYSHT.IR