



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

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Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

JOHN WATTS
ERNA WATTS
LINDA WATTS
41769 SOD HOUSE LANE
PRINCETON, OR 97721

August 1, 2008

Reference: File G-17045

Dear Watts':

**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 0.44 cubic foot per second (CFS) of water from a well (HARN 50634) for irrigation use on 35.0 acres from March 1 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from a well (HARN 50634) in Malheur Lake Basin for irrigation use on 35.0 acres is allowable under the Malheur Lake 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. The area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Certificate of Water Right 76880, which

conflicts with your application. Please see the **Conflict Resolution Information** section below for more information.

Summary of Initial Determinations

The use of 0.44 CFS from a well (HARN 50634) in Malheur Lake Basin for irrigation use on 35.0 acres is allowable during the full period requested, March 1 through October 31.

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.

Conflict Resolution Information

According to Department records, there is an existing irrigation water right evidenced by Certificate of Water Right 76880 covering some of the lands proposed under this application. If you would like this application to be the primary right for these lands, the Department must receive a completed form authorizing cancellation of the existing right, if it is determined the existing certificate develops water from a different aquifer then 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.

Please submit this information no later than 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.

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.

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 or other suitable measuring device as approved by the Director at each point of appropriation. The permittee shall maintain the meter or measuring device in good working order.
 - 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.
 - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used, and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit. The Director may provide an opportunity for the permittee to submit alternative reporting procedures for review and approval.
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 use described herein may be considered primary irrigation only after the underlying primary water rights have been canceled, diminished (applicable only if it is determined the existing certificate develops water from a different aquifer), or transferred to other lands. At the time of perfection, the permittee may request that the right be certificated as primary if the conflict with underlying rights has been resolved, and the water has been used beneficially as the primary source according to the terms and conditions of the permit.

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 503-986-0808 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: Brook Geffen, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17045
WAB 12-NA
POU 12-NA
GW

APPLICATION FACT SHEET

Application File Number: G-17045

Applicants: JOHN, ERNA, AND LINDA WATTS

County: HARNEY

Watermaster: 10

Priority Date: APRIL 23, 2008

Source: A WELL (HARN 50634) IN MALHEUR LAKE BASIN

Use: IRRIGATION USE ON 35.0 ACRES

Quantity: 0.44 CUBIC FOOT PER SECOND

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 2 MALHEUR L & MISC

Well Location: NENE, SECTION 33, T26S, R33E, W.M.; 360 FEET SOUTH AND 1162 FEET WEST FROM NE CORNER, SECTION 33

Place of Use:

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 35.0 ACRES
SECTION 33
TOWNSHIP 26 SOUTH, RANGE 33 EAST, 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-17045

IR Date: August 1, 2008

Original mailed to applicant:

JOHN, ERNA, AND LINDA WATTS , 41769 SOD HOUSE LANE, PRINCETON, OR 97721

Copies sent to:

1. WRD - File # G-17045
2. WRD - Water Availability: Ken Stahr

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

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Regional Manager (not SCR):
4. WRD -Watermaster # 10 (include Division 33 form)
5. Department of Agriculture

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

Caseworker: Brook Geffen

COPYSH.T.IR

REMINDER: Copy all IR's for uses in the Klamath Basin to DEQ and ODFW contacts, regardless of whether they are subject to Division 33. (If they are not subject to Division 33, do not include Division 33 forms.)