



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

November 21, 2008

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

CROOKED RIVER RANCH CLUB & MAINTENANCE ASSOCIATION
ATTN: FRANK FERRARO
PO BOX 1477
CROOKED RIVER RANCH OR 97760

Reference: File [G-17051](#)

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 2.11 cubic feet per second (CFS) of water from a well for irrigation use on 148.53 acres April 1 through November 1 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, tributary to Crooked River](#) for [irrigation 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 Crooked River, 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 Crooked River 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 Crooked River is tributary to mainstem Deschutes River which is a State Scenic Waterway. The proposed use will measurably reduce scenic waterway flows as defined in ORS 390.835.
9. Because the proposed well, located in the Deschutes Ground Water Study Area, has 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 267.4 acre-feet (AF) annually. The required mitigation is based on the use of 2.11 CFS for [irrigation](#) from March 1 through November 1 of each year. The mitigation obligation is calculated based on a consumptive-use factor of 1.8 AF per acre.
11. The Department has determined that mitigation for the proposed use must be located in the Crooked River Zone of Impact.
12. The standard allowable rate for irrigation use of ground water is 1/80 CFS per acre. Your application requested 2.11 CFS for irrigation use on 148.53 acres. If the application is approved, the rate allowed will be limited to 1.86 CFS.
13. Some of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Certificate of Water Right 64216, which conflicts with your application. Please see the **Conflict Resolution Information** section below for more information.

Summary of Initial Review

The use of 1.86 CFS from [a well, tributary to Crooked River](#) for [irrigation](#) is not allowable. However, if you provide sufficient mitigation water to offset the proposed use, it may be allowed under OAR 690-505-0610.

Conflict Resolution Information

1. According to Departmental records, there is an existing irrigation water right evidenced by Certificate of Water Right 64216 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.

2. If you choose a means for resolving the conflict which results in any change to the application map, an updated map is required.

Please submit this information no later than December 26, 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.

Mitigation Obligation Options:

To satisfy your mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 267.4 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 Wilke (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 by Friday, December 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 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:

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 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.
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. The Department requires the water user to measure 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 submit 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 measure 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. 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 submitted 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 feet or more in any neighboring well of 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.

- 4. Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an OWRD Well Identification Number (Well ID). A tag showing the Well ID shall be permanently attached to the well. If a well does not have a Well ID, the permittee shall apply for one from the Department and attach it to the well within 60 days of the date the permit is issued. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

Ground Water Mitigation Conditions

- 1. Mitigation Obligation: 267.4 acre-feet of mitigation water in the Crooked River Zone of Impact (located anywhere in the Crooked River Basin above river mile 13.8).
- 2. Mitigation Source: obtain 267.4 acre-feet of mitigation water or equivalent mitigation credits that meet the requirements of OAR 690-505-0610(2)-(5).
- 3. Mitigation water must be legally protected instream in the Crooked River 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.

If you have questions:

This Initial Review was produced by Brook Geffen. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0808 or Brook.A.Geffen@wrdd.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,



Brook Geffen
Water Rights Application Caseworker

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

G-17051
WAB 5-30530112
POU 5-30530112
GW

Application Fact Sheet

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

Application Number: G-17051

Applicant: CROOKED RIVER RANCH CLUB & MAINTENANCE ASSOCIATION
ATTN: FRANK FERRARO, PO BOX 1477, CROOKED RIVER RANCH OR 97760

County: JEFFERSON

Watermaster: District #11

Priority Date: MAY 13, 2008

Source: A WELL, TRIBUTARY TO CROOKED RIVER

Use: IRRIGATION

Quantity: 2.11 CUBIC FEET PER SECOND

Basin Name & Number: Deschutes, #5

Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Measured Distances
13 S	12 E	WM	14	NE SW	2640 FEET NORTH AND 60 FEET WEST FROM S1/4 CORNER, SECTION 14

Place of Use:

Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	12 E	WM	14	SW NE	4.35
13 S	12 E	WM	14	NE NW	1.50
13 S	12 E	WM	14	NW NW	24.15
13 S	12 E	WM	14	SW NW	8.46
13 S	12 E	WM	14	SE NW	11.16
13 S	12 E	WM	14	NE SW	20.53
13 S	12 E	WM	14	SE SW	15.29
13 S	12 E	WM	14	NW SE	17.11
13 S	12 E	WM	14	SW SE	21.11
13 S	12 E	WM	14	SE SE	2.44
13 S	12 E	WM	23	NE NE	20.63
13 S	12 E	WM	23	NW NE	0.87
13 S	12 E	WM	23	SE NE	0.40
13 S	12 E	WM	24	NW NW	0.49
13 S	12 E	WM	24	SW NW	0.04

Public Notice Date: Tuesday, November 25, 2008

14-day Stop Processing Deadline: Friday, December 5, 2008

End of 30-day Comment Period: Thursday, December 25, 2008

Mailing List for IR Copies

Application: [G-17051](#)

IR Date: November 21, 2008

Original mailed to:

Applicant: [CROOKED RIVER RANCH CLUB & MAINTENANCE ASSOCIATION](#)
[ATTN: FRANK FERRARO, PO BOX 1477, CROOKED RIVER RANCH OR 97760](#)

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

Copies sent to:

1. WRD - File [G-17051](#)
2. WRD - Water Availability: Ken Stahr
3. WRD - Laura Wilke
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: Steve Marx & Clair Kunkle
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: Jim Johnson & Paul Measeles
9. OPRD: Jan Houck & Dave Wright
10. DSL: Nancy Pustis (Bend)

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

11. Kate LaRiche Moore, 1 SW Columbia St, Suite 1110, Portland OR, 97258
12. TYE Engineering & Surveying, Inc, 725 NW Hill, Bend OR 97701

Caseworker: bag

**RESPONSE TO NOTICE OF MITIGATION OBLIGATION
CREDIT OR PROJECT OPTION**

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.

Applicant(s): **CROOKED RIVER RANCH CLUB & MAINTENANCE ASSOCIATION**

ATTN: FRANK FERRARO

Applicant's agent (*if applicable*):

Application number: **G-17051**

Proposed Use: **IRRIGATION**

Period of Use: **APRIL 1 THROUGH NOVEMBER 1**

Rate requested: **2.11 CUBIC FEET PER SECOND**

Volume requested: 1.86 acre-feet

Mitigation Obligation: 267.4 acre-feet

Zone of Impact: Crooked River Zone of Impact

Please read and initial the following statements:

_____ I/We intend to provide mitigation in the amounts noted above and in the appropriate zone of impact.

_____ I/We understand that mitigation must be provided within five years of issuance of the final order.

The source of mitigation water 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:

(over)

I understand that I must provide mitigation credits in the amount noted, or a suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5) in the appropriate zone of impact.

Applicant(s)

or

Applicant's agent

Date _____

Telephone Number: _____

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