

Oregon Water Resources Department  
Water Rights Division

Water Rights Application  
Number G-16757

**Final Order**

*Hearing and Appeal Rights*

Under the provisions of ORS 537.170 and ORS 537.622, the applicant may request a contested case hearing by submitting the information required for a protest under ORS 537.153(6) or ORS 537.621(7) to the Department within 14 days after the date of mailing of this order as shown below. If a contested case hearing is requested, the Department must schedule one. In the contested case hearing, however, only those issues based on the modifications to the Proposed Final Order may be addressed.

ORS 536.075 allows for additional appeal rights for other than contested case. This is a Final Order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

*Application History*

On November 29, 2006, COUNTY OF WALLOWA HEALTH CARE DISTRICT submitted an application to the Department for a water use permit. The Department issued a Proposed Final Order on June 17, 2008. The protest period closed August 1, 2008, and no protest was filed.

The proposed use would not impair or be detrimental to the public interest, but the Department's continuing evaluation reveals that the Proposed Final Order requires modification to correctly describe a standard condition, an additional standard condition, a condition recommended by Oregon Department of Environmental Quality, and to omit an unnecessary condition.

The Proposed Final Order described the following condition:

If the riparian area is disturbed in the process of developing a point of diversion, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The condition as modified in the attached draft permit is:

If the riparian area is disturbed in the process of developing a point of appropriation, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The Proposed Final Order described the following condition, which has been omitted in the attached permit due to redundancy.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

The conditions included in the attached draft permit are:

Return flow temperatures shall not exceed stream temperatures.

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 tag), which shall be permanently attached to the well. 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.

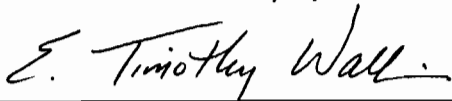
#### **Order**

Application G-16757 is therefore approved with these modifications to the Proposed Final Order. Upon payment of outstanding fees in the amount of \$300, a permit shall be issued authorizing the proposed water use.

Failure to meet this requirement within 60 days from the date of this Final Order may result in the proposed rejection of the application.

*If you need to request additional time, your written request should be received in the Salem office of the Department within 60 days of this Final Order. The Department will evaluate the request and determine whether or not the request may be approved.*

**DATED December 11, 2008**



for Phillip C. Ward, Director  
Water Resources Department

*This document was prepared by Kerry Kavanagh. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0816.*

*If you have questions about how to file a protest or a request for standing, please refer to the section in this Final Order entitled "Hearing and Appeal Rights". If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.*

*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 Ste A, Salem OR 97301-1266, Fax: 503-986-0901.*

DRAFT

This is not a permit.  
STATE OF OREGON

DRAFT

COUNTY OF WALLOWA

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

COUNTY OF WALLOWA HEALTH CARE DISTRICT  
401 NE 1ST  
ENTERPRISE, OR 97828

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16757

SOURCE OF WATER: WELL 1, WELL 2, AND WELL 3 IN TROUT CREEK BASIN

PURPOSE OR USE: COMMERCIAL USE (GEOTHERMAL HEATING/COOLING)

MAXIMUM RATE: 1.0 CUBIC FOOT PER SECOND

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: NOVEMBER 29, 2006

WELL LOCATIONS:

WELL 1 - NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SECTION 35, T1S, R44E, W.M.; 355 FEET SOUTH AND 510 FEET WEST FROM C1/4 CORNER, SECTION 35

WELL 2 - NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SECTION 35, T1S, R44E, W.M.; 85 FEET SOUTH AND 1190 FEET WEST FROM C1/4 CORNER, SECTION 35

WELL 3 - NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SECTION 35, T1S, R44E, W.M.; 50 FEET SOUTH AND 575 FEET WEST FROM C1/4 CORNER, SECTION 35

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NE  $\frac{1}{4}$  SW  $\frac{1}{4}$   
SECTION 35  
TOWNSHIP 1 SOUTH, RANGE 44 EAST, W.M.

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, 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.

Prior to use of ground water under this permit, the water user must receive a permit for the proposed discharge activity, if required, by the Oregon Department of Environmental Quality.

Return flow temperatures shall not exceed stream temperatures.

The water user shall discharge all ground water appropriated from Well 1, Well 2, and Well 3 into the ditch located along the northern boundary of the property.

Water may not be used under this permit during any period when water is being used otherwise under the hospital's commercial exemption.

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.

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 tag), which shall be permanently attached to the well. 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.

#### **STANDARD CONDITIONS**

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may not be valid, unless the Department authorizes the change in writing.

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 well(s) shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

If the riparian area is disturbed in the process of developing a point of appropriation, the permittee shall be responsible for restoration and enhancement of such riparian area in accordance with ODFW's Fish and Wildlife Habitat Mitigation Policy OAR 635-415. For purposes of mitigation, the ODFW Fish and Wildlife Habitat Mitigation Goals and Standards, OAR Chapter 635, Division 415, Section 030 adopted November 13, 1991 shall be followed.

The use may be restricted if the quality of the source stream or downstream waters decreases to the point that those waters no longer meet existing state or federal water quality standards due to reduced flows.

Where two or more water users agree among themselves as to the manner of rotation in the use of water and such agreement is placed in writing and filed by such water users with the watermaster, and such rotation system does not infringe upon such prior rights of any water user not a party to such rotation plan, the watermaster shall distribute the water according to such agreement.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

Completion of construction and complete application of the water to the use shall be made on or before October 1, 2013. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use,

the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued \_\_\_\_\_, 2008

**DRAFT - THIS IS NOT A PERMIT**

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for Phillip C. Ward, Director  
Water Resources Department