



# 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**

LAUGHLIN ORCHARDS INC  
ATTN: ROBERT LAUGHLIN  
PO BOX 399  
CARLTON, OR 97111

February 6, 2009

Reference: File S-87367

Dear Applicant:

### **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 requested the use of 0.84 cubic foot per second (CFS) from runoff, tributary of Hawn Creek, being 0.75 CFS for irrigation use on 166.5 acres and 0.09 CFS for pond maintenance from March 1 through October 31. The application also requested the use of 9.1 acre feet (AF) from Bonnie Jean Reservoir (Application R-87366) for irrigation use on the same 166.5 acres from March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Under OAR 690-502-100(4)(a), water for irrigation use may not be appropriated May 1 through October 31.

The use of water from runoff, tributary of Hawn Creek, for pond maintenance is allowable under the Willamette Basin Program.

4. The use of stored water for irrigation is allowable from March 1 through October 31 under the Willamette Basin Program.
5. Surface water is not available during the period July 1 through September 30.
6. Stored water is available, subject to approval of Application R-87366.
7. The proposed amount of water does not appear to be sufficient to provide a beneficial use without waste. The applicant proposes to irrigate 166.5 acres. The standard duty for the application of water for irrigation in the Willamette Basin is 2.5 acre feet per acre.

Therefore, the standard duty allowed to irrigate 166.5 acres would be 416.25 AF, or more than 45 times the requested duty of 9.1 AF during the irrigation season. However, by providing additional information you may be able to pursue a limited permit. Please refer to the **Additional Information Opportunity** section below for details.

### **Summary of Initial Determinations**

**The use of 0.09 CFS from runoff, tributaries of Hawn Creek for pond maintenance may be allowed March 1 through June 30 and October 1 through October 31.**

**The use of 9.1 AF from Bonnie Jean Reservoir for irrigation use on 166.5 acres may be allowable during the full period requested, March 1 through October 31, contingent upon the approval of Application R-87366.**

**The use of 0.75 CFS from runoff, tributaries of Hawn Creek for irrigation use on 166.5 acres is not allowable.**

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to **#3 and 5** above, your application will likely be limited accordingly.

### **Additional Information Opportunity**

The application materials briefly explain that you plan to irrigate by means of a drip system and will be rotating the land to be irrigated from one season to the next. Please explain how you plan to make beneficial use without waste, irrigating 166.5 acres with only 9.1 AF of stored water.

**Please submit the information no later than Thursday, March 12, 2009.** 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.

At this time, you must decide whether to proceed or to withdraw your application as described below.

#### **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, February 20, 2009**. 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. The permittee is required to pass all live flow outside the storage season. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
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 503-986-0815 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: Joel Plahn, 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 Plahn', written in a cursive style.

Joel Plahn  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87367  
WAB 2-188  
POU 2-188  
GW

# APPLICATION FACT SHEET

Application File Number: S-87367

Applicant: LAUGHLIN ORCHARDS INC.

County: YAMHILL

Watermaster: 16

Priority Date: December 22, 2008

Source: RUNOFF, AND BONNIE JEAN RESERVOIR (APPLICATION R-87366),  
TRIBUTARIES OF HAWN CREEK

Use: IRRIGATION USE ON 166.5 ACRES AND POND MAINTENANCE

Quantity: 0.84 CUBIC FOOT PER SECOND (CFS) BEING, 0.75 CFS FOR IRRIGATION  
AND 0.09 CFS FOR POND MAINTENANCE AND 9.1 ACRE FEET FROM BONNIE JEAN  
RESERVOIR TO BE CONSTRUCTED UNDER APPLICATION R-87366

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 12A YAMHILL R MISC

Point of Diversion Location(s):

SESW SECTION 19, T3S, R3W, W.M.; 210 FEET NORTH AND 1565 FEET EAST FROM  
SW CORNER, SECTION 19

Place of Use:

SW ¼ NE ¼	6.4 ACRES	IRRIGATION
SW ¼ NW ¼	4.1 ACRES	IRRIGATION
SE ¼ NW ¼	14.1 ACRES	IRRIGATION
NE ¼ SW ¼	37.1 ACRES	IRRIGATION
NW ¼ SW ¼	38.0 ACRES	IRRIGATION
SW ¼ SW ¼	17.6 ACRES	IRRIGATION
SE ¼ SW ¼	34.0 ACRES	IRRIGATION AND POND MAINTENANCE
NW ¼ SE ¼	7.0 ACRES	IRRIGATION
SW ¼ SE ¼	0.1 ACRE	IRRIGATION
SECTION 19		
TOWNSHIP 3 SOUTH, RANGE 3 WEST, W.M.		
NE ¼ SE ¼	3.6 ACRES	IRRIGATION
SE ¼ SE ¼	4.5 ACRES	IRRIGATION
SECTION 24		
TOWNSHIP 3 SOUTH, RANGE 4 WEST, W.M.		

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 20, 2009**

**PUBLIC NOTICE DATE: Tuesday, February 10, 2009**

**30 DAY COMMENT DEADLINE DATE: Thursday, March 12, 2009**

# Mailing List for IR Copies

Application #S-87367

IR Date : February 6, 2009

## Original mailed to applicant:

ROBERT LAUGHLIN LAUGHLIN ORCHARDS INC, PO BOX 399, CARLTON, OR 97111

## Copies sent to:

1. WRD - File # S-87367
2. WRD - Water Availability: Ken Stahr

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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## IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 16 (include Division 33 form)
4. ODFW: (include Division 33 form)
5. DEQ: (include Division 33 form)
6. Department of Agriculture

## Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

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

William Kness,

Stuntzner Engineering & Forestry, LLC, 2137 19<sup>th</sup> Avenue, Forest Grove OR 97116

COPYSHT.IR

Caseworker: Joel Plahn