



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

BERKEMEIER FARMS INC
ATTENTION: RICHARD BERKEMEIER
22186 S HAINES RD
CANBY, OR 97013

February 6, 2009

Reference: File G-17158

Dear Mr. Berkemeier:

**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 1.11 cubic feet per second (CFS) of water from Well 1 (CLAC 65581) in Willamette River Basin for year-round nursery use on 94.0 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are fully included in irrigation and agriculture uses, both of which are allowed by OAR 690-502, the Willamette Basin Program. Therefore, the use of water from Well 1 (CLAC 65581) in Willamette River Basin for nursery use is classified.
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.

Summary of Initial Determinations

The use of 1.11 CFS from Well 1 (CLAC 65581) in Willamette River Basin for nursery use on 94.0 acres is allowable during the full period requested, year round.

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.

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, February 20, 2009**. 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, shall keep a complete record of the amount of water used each month, and shall submit an annual report which includes the recorded water use measurements to the Department by December 1 of each year. 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. 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.
3. 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.
4. The well shall not be deepened or altered such that water is produced from other aquifers in the Columbia River Basalt Group.

5. (1) Use of water from any well, as allowed herein, shall be controlled or shut off if the well displays:
 - (a) An average water level decline of three or more feet per year for five consecutive years; or
 - (b) A total water level decline of fifteen or more feet; or
 - (c) A hydraulic interference decline of fifteen or more feet in any neighboring well providing water for senior exempt uses or wells covered by prior rights.
- (2) The permittee/appropriator shall be responsible for complying with each of the following requirements for measuring water levels in the well(s).
 - (a) Use of water from a new well shall not begin until an initial static water level in the well has been measured and reported to the Department.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year during the period March 1 through March 31.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals are certified water rights examiners, registered geologists, registered professional engineers, licensed land surveyors, licensed water well constructor, licensed pump installer, or the permittee/appropriator.
 - (d) Any qualified individual measuring a well shall use standard methods of procedure and equipment designed for the purpose of well measurement. The equipment used shall be well suited to the conditions of construction at the well. A list of standard methods of procedure and suitable equipment shall be available from the Department.
 - (e) The permittee/appropriator shall report the record of measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be submitted to the Department within 90 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (2).

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 503-986-0816 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: Kerry Kavanagh, 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 cursive script that reads "K Kavanagh".

Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17158
WAB 2-181
POU 2-181
GW no psi

APPLICATION FACT SHEET

Application File Number: G-17158

Applicant: BERKEMEIER FARMS INC; RICHARD BERKEMEIER

County: CLACKAMAS

Watermaster: 20

Priority Date: DECEMBER 31, 2008

Source: WELL 1 (CLAC 65581) IN WILLAMETTE RIVER BASIN

Use: NURSERY USE ON 94.0 ACRES

Quantity: 1.11 CUBIC FEET PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 26 WILLAMETTE R & TRIBS

Well Location: NENW, SECTION 26, T3S, R1E, W.M.; 2410 FEET NORTH AND 2650 FEET WEST FROM SE CORNER, DLC 43

Place of Use:

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.2 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 1.6 ACRES
SECTION 23

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 15.3 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 10.7 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 32.7 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 30.5 ACRES
SECTION 26

TOWNSHIP 3 SOUTH, RANGE 1 EAST, 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 #G-17158

IR Date: February 6, 2009

Original mailed to applicant:

BERKEMEIER FARMS INC
ATTENTION: RICHARD BERKEMEIER
22186 S HAINES RD
CANBY, OR 97013

Copies sent to:

1. WRD - File # G-17158
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD -Watermaster # 20

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

4. Kupillas, Greg, CWRE #432
Pacific Hydro Geology, 18477 S Valley Vista Rd, Mulino OR 97042

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

Caseworker: Kerry Kavanagh

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.)