



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**

DITCHEN LAND CO. LLP
ATTN: DUANE DITCHEN
7385 HOWELL PRAIRIE RD NE
SILVERTON, OR 97381

May 23, 2008

Reference: File S-87141

Dear Mr. Ditchen:

**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 0.6 cubic foot per second (CFS) of water from Walker Creek, a tributary of Spring Valley Creek for irrigation use on 209.53 acres 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 Walker Creek, a tributary of Spring Valley Creek for irrigation use is not classified under the Willamette Basin Program July 1 through August 31.
4. Surface water is available in the amount and for the full period requested.
5. According to Department records, there is an existing irrigation water right evidenced by permit G-10502, covering the land proposed by under this application.

Your application states that permit G-10502 will be diminished to supplemental irrigation use upon perfection of a permit, if issued, under this application.

6. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.6 CFS of water from Walker Creek, a tributary of Spring Valley Creek for irrigation use on 209.53 acres is not allowable, and it appears unlikely that you will be issued a permit. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Required:

The map submitted with the application indicates that water will be diverted and transported within Tax Lot 202, Section 6, Township 7 South, Range 3 West, W.M.. and Tax Lot 500, Section 6, Township 3 South, Range 3 West, W.M.. However, the Land Use Information Form submitted with the application does not include these lands.

Prior to the issuance of a permit, the Department must receive documentation that the required land-use approvals have been obtained, and that all administrative appeal periods have expired, or no appeals were received by the County.

Please submit this information no later than June 8, 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.

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, June 6, 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 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.
 - 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. 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.
3. Prior to issuance of a certificate under this permit, any existing primary irrigation right shall be diminished to supplemental irrigation use, cancelled, transferred, or dealt with by other means.

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 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

S-87141
WAB 2-182
POU 2-182
GW-NA

APPLICATION FACT SHEET

Application File Number: S-87141

Applicant: DITCHEN LAND CO. LLP

County: POLK

Watermaster: 16

Priority Date: APRIL 14, 2008

Source: WALKER CREEK, A TRIBUTARY OF SPRING VALLEY CREEK

Use: IRRIGATION USE ON 209.53 ACRES

Quantity: 0.6 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 17 SPRING VALLEY CR & MISC

Point of Diversion: NENW, SECTION 6, T7S, R3W, W.M.; 390 FEET SOUTH AND 2150 FEET EAST FROM NW CORNER, SECTION 6

Place of Use:

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 5.61 ACRES

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 16.99 ACRES

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.62 ACRE

SECTION 31

TOWNSHIP 6 SOUTH, RANGE 3 WEST, W.M.

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 23.79 ACRES

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 35.0 ACRES

SE $\frac{1}{4}$ NW $\frac{1}{4}$ 9.42 ACRES

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 9.33 ACRES

SE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.28 ACRE

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 19.47 ACRES

SE $\frac{1}{4}$ SE $\frac{1}{4}$ 9.02 ACRES

SECTION 36

TOWNSHIP 6 SOUTH, RANGE 4 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 6, 2008

PUBLIC NOTICE DATE: Tuesday, May 27, 2008

30 DAY COMMENT DEADLINE DATE: Thursday, June 26, 2008

Mailing List for IR Copies

Application #S-87141

IR Date: May 23, 2008

Original mailed to applicant:

DITCHEN LAND CO. LLP, ATTN: DUANE DITCHEN 7385 HOWELL PRAIRIE RD NE,
SILVERTON, OR 97381

Copies sent to:

1. WRD - File # S-87141
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 16 (include Division 33 form)
4. ODFW: Karen Hans (include Division 33 form)
5. DEQ: Nancy Gramlich (include Division 33 form)

6. Department of Agriculture

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

7. Malia Kupillas, CWRE #60772

Caseworker: Brook Geffen

\\COPYSHT.IR

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

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.)