



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

KEVIN AND MARIAN KENT
10815 SE 362ND AVE
BORING, OR 97009-8721

March 6, 2009

Reference: File G-17159

Dear Applicants:

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 225.0 gallons per minute, which is 0.5 cubic foot per second (CFS) of water from a well (CLAC 65463) for domestic use for one household year-round, agricultural use on 28.0 acres November 1 through the end of February, and nursery use on 28.0 acres March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Domestic use of up to 15,000 gallons per day from a well is exempt from permitting requirements. The Department will therefore ***not consider*** domestic use to be a part of your application unless you notify us in writing by Thursday, April 2, 2009, that you are interested in receiving a permit for domestic use. Any permit issued, including permits for exempt uses, will be subject to metering requirements, rate limitations, and any other conditions contained in the permit.

If you do notify us in writing that you are interested in receiving a permit for domestic use, fees in the amount of \$200.00 will be required for the additional use.

4. The appropriation of water from a well (CLAC 65463) in Cedar Creek Basin for agriculture use and nursery use is not allowable under the Sandy Basin Program. However, your application also indicated a request for irrigation use which is allowable under the Sandy Basin Program. Irrigation use is limited to:
 - the use of water to crops or plants by artificial means to promote growth, nourish plants, leach minerals, control frost, etc, and

- March 1 through October 31 of each year.

The Department will therefore consider irrigation use on 28.0 acres between March 1 and October 31 of each year to be a part of your application unless you notify us in writing by Thursday, April 9, 2009, that you are ***not interested*** in receiving a permit for irrigation use.

5. The standard allowable rate for irrigation use of ground water is 1/80 CFS per acre. Your application requested 0.5 CFS for use on 28.0 acres. If the application is approved, the rate allowed will be limited to 0.35 CFS.
6. 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 have the potential for substantial interference with Cedar Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered.

Surface water is not available at any time of year.

7. The proposed use is located above the Sandy River Scenic Waterway, as designated under ORS 390.826.
8. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.35 CFS of water from a well (CLAC 65463) in Cedar Creek Basin for irrigation use on 28.0 acres March 1 through October 31 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.

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, March 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 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.
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 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.
4. (1) Use of water from any well, as allowed herein, shall be regulated 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 the initial water level in the well has been measured. A measurement of initial water level shall be made at the time a pump is installed, but before pumping begins.
 - (b) In addition to the measurement required in subsection (a) of this section, a water level measurement shall be made each year at the time of spring high water during the period March 15 through April 15.
 - (c) All water level measurements shall be made by a qualified individual. Qualified individuals include certified water rights examiners, licensed

water well drillers, registered geologists, registered professional engineers, registered land surveyors, licensed well constructor, pump installer licensed by the Construction Contractors Board, 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.
- 5. 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.

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

G-17159
WAB 3-71548
POU 3-71548
GW

APPLICATION FACT SHEET

Application File Number: G-17159

Applicant: KEVIN AND MARIAN KENT

County: CLACKAMAS

Watermaster: 20

Priority Date: JANUARY 2, 2009

Source: A WELL (CLAC 65463) IN CEDAR CREEK BASIN

Use: DOMESTIC USE; AGRICULTURE USE AND NURSERY USE ON 28.0 ACRES

Quantity: 0.5 CUBIC FOOT PER SECOND

Basin Name & Number: Sandy, #3

Stream Index Reference: Volume 2 CEDAR CR & MISC

Point of Diversion or Well Location(s): SENE, SECTION 21, T2S, R5E, W.M.; 910 FEET NORTH AND 715 FEET WEST FROM E1/4 CORNER, SECTION 21

Place of Use:

SE $\frac{1}{4}$ NE $\frac{1}{4}$ DOMESTIC USE
SECTION 21

SE $\frac{1}{4}$ NE $\frac{1}{4}$ 28.0 ACRES AGRICULTURE AND NURSERY USE
SECTION 21
TOWNSHIP 2 SOUTH, RANGE 5 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, March 20, 2009

PUBLIC NOTICE DATE: Tuesday, March 10, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, April 9, 2009

Mailing List for IR Copies

Application #G-17159

IR Date: March 6, 2009

Original mailed to applicant:

KEVIN AND MARIAN KENT , 10815 SE 362ND AVE, BORING, OR 97009-8721

Copies sent to:

- WRD - File # G-17159
- WRD - Water Availability: Ken Stahr

Copies Mailed

By: _____
(SUPPORT STAFF)

on: _____
(DATE)

IR, Map, and Fact Sheet Copies sent VIA EMAIL to:

- WRD - Watermaster # 20 (include Division 33 form)
- ODFW: (include Division 33 form)
- DEQ: (include Division 33 form)

IR, map, Fact Sheet

- Department of Agriculture

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

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

Ed Crane, CWRE, #156

Caseworker: Brook Geffen

\\COPYSHT.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.)