



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

KENNY UNGER
9816 BURNETT AVE
NORTH HILLS, CA 91343

April 3, 2009

Reference: File S-87365

Dear Mr. Unger:

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 50.0 acre-feet (AF) of water from Unger 1 Reservoir (under Application R-87364), tributary of Hutchcroft Creek, 50.0 AF of water from Unger 2 Reservoir (under Application R-87364), tributary of North Yamhill River, and 9.1 AF of water from Unger 3 Reservoir (under Application R-87363), tributary of Hutchcroft Creek for irrigation use March 1 through October 31 on 176.9 acres and agriculture use year-round on 176.9 acres, and 3.3 cubic feet per second (CFS) from Hutchcroft Creek, a tributary of North Yamhill River, unnamed stream, a tributary of Hutchcroft Creek, and unnamed stream, a tributary of North Yamhill River, being 2.21 CFS for irrigation use and agriculture use and 1.09 CFS for pond maintenance of Unger 1 Reservoir, Unger 2 Reservoir, and Unger 3 Reservoir.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Unger 1 Reservoir, Unger 2 Reservoir, and Unger 3 Reservoir is allowable for irrigation use March 1 through October 31 and for agriculture use year-round under the Willamette Basin Program.

The use of water from 1) Hutchcroft Creek, a tributary of North Yamhill River, 2) unnamed stream, a tributary of Hutchcroft Creek, and 3) unnamed stream, a tributary of North Yamhill River, for irrigation and agriculture use is allowable September 1 through June 30 and for pond maintenance year round, under the Willamette Basin Program.

4. Under the Yamhill River Decree, the use of water from 1) Hutchcroft Creek, a tributary of North Yamhill River, 2) unnamed stream, a tributary of Hutchcroft Creek, and

- 3) unnamed stream, a tributary of North Yamhill River, for irrigation use is limited to April 1 through September 30.
5. Stored water from Unger 1 Reservoir, Unger 2 Reservoir, and Unger 3 Reservoir is available for irrigation use March 1 through October 31 and for agriculture use year round, contingent upon approval of applications R-87363 and R-87364.
6. Surface water from 1) Hutchcroft Creek, a tributary of North Yamhill River, 2) unnamed stream, a tributary of Hutchcroft Creek, and 3) unnamed stream, a tributary of North Yamhill River is not available for any use June 1 through November 30.

Summary of Initial Determinations

The use of water from Unger 1 Reservoir, Unger 2 Reservoir, and Unger 3 Reservoir for irrigation use of 176.9 acres is allowable March 1 through October 31 and is allowable for agriculture use of 176.9 acres year-round.

The use of water from 1) Hutchcroft Creek, a tributary of North Yamhill River, 2) unnamed stream, a tributary of Hutchcroft Creek, and 3) unnamed stream, a tributary of North Yamhill River for irrigation use of 176.9 acres is allowable April 1 through May 30.

The use of water from 1) Hutchcroft Creek, a tributary of North Yamhill River, 2) unnamed stream, a tributary of Hutchcroft Creek, and 3) unnamed stream, a tributary of North Yamhill River for agriculture use of 176.9 acres is allowable December 1 through May 30 and for pond maintenance of Unger 1 Reservoir, Unger 2 Reservoir, and Unger 3 Reservoir is allowable December 1 through May 30.

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, April 17, 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 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. 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. At the time of certification, the total rate allowed for pond maintenance may be reduced, in accordance with Departmental standards, so as to be commensurate with the certified volume(s) of the reservoir(s).

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,

A handwritten signature in black ink that reads "Brook Geffen" with a horizontal flourish extending to the right.

Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87365
WAB 2- 70746
POU 2-70746
GW - NA

APPLICATION FACT SHEET

Application File Number: S-87365

Applicant: KENNY UNGER

County: YAMHILL

Watermaster: 16

Priority Date: DECEMBER 12, 2008

Source: UNGER 1 RESERVOIR (CONTINGENT UPON APPROVAL OF APPLICATION R-87364) AND UNGER 3 RESERVOIR (CONTINGENT UPON APPROVAL OF APPLICATION R-87363), TRIBUTARIES OF HUTCHCROFT CREEK, AND UNGER 2 RESERVOIR (CONTINGENT UPON APPROVAL OF APPLICATION R-87364), A TRIBUTARY OF NORTH YAMHILL RIVER, HUTCHCROFT CREEK, A TRIBUTARY OF NORTH YAMHILL RIVER, UNNAMED STREAM, A TRIBUTARY OF HUTCHCROFT CREEK, AND UNNAMED STREAM, A TRIBUTARY OF NORTH YAMHILL RIVER

Use: AGRICULTURE USE AND IRRIGATION USE ON 176.9 ACRES, AND POND MAINTENANCE

Quantity: 3.3 CUBIC FEET PER SECOND (CFS), BEING 2.21 CFS FOR IRRIGATION USE AND AGRICULTURE USE, 1.09 CFS FOR POND MAINTENANCE, AND 109.10 ACRE FEET (AF), BEING 50.0 ACRE FEET AF FROM UNGER 1 RESERVOIR, 50.0 AF FROM UNGER 2 RESERVOIR, AND 9.1 ACRE FEET FROM UNGER 3 RESERVOIR

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 12 N YAMHILL R MISC

Points of Diversion/Dam Locations:

POD 1 AND UNGER 1 DAM LOCATION: SWSW, SECTION 36, T2S, R5W, W.M.; 900 FEET NORTH AND 40 FEET EAST FROM SW CORNER, SECTION 36

POD 2 AND UNGER 2 DAM LOCATION: NWNE, SECTION 2, T3S, R5W, W.M.; 555 FEET SOUTH AND 1890 FEET WEST FROM NE CORNER, SECTION 2

POD 3 AND UNGER 3 DAM LOCATION: SWSE, SECTION 36, T2S, R5W, W.M.; 815 FEET NORTH AND 2755 FEET EAST FROM SW CORNER, SECTION 36

POD 4: SESW, SECTION 36, T2S, R5W, W.M.; 1160 FEET NORTH AND 2135 FEET EAST FROM SW CORNER, SECTION 36

POD 5: NWNE, SECTION 2, T3S, R5W, W.M.; 50 FEET SOUTH AND 2345 FEET WEST FROM NE CORNER, SECTION 2

POD 6: NENE, SECTION 2, T3S, R5W, W.M.; 805 FEET SOUTH AND 70 FEET WEST FROM NE CORNER, SECTION 2

Place of Use:

IRRIGATION USE AND AGRICULTURE USE

NE $\frac{1}{4}$ SE $\frac{1}{4}$ 0.8 ACRE
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 31.2 ACRES
SECTION 35

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 0.5 ACRE
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.1 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 34.0 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 33.3 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 3.4 ACRES
SECTION 36

TOWNSHIP 2 SOUTH, RANGE 5 WEST, W.M.

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 20.5 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 38.8 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 7.3 ACRES
SECTION 2

TOWNSHIP 3 SOUTH, RANGE 5 WEST, W.M.

POND MAINTENANCE

SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 35

SW $\frac{1}{4}$ SW $\frac{1}{4}$
SE $\frac{1}{4}$ SW $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 36

TOWNSHIP 2 SOUTH, RANGE 5 WEST, W.M.

NW $\frac{1}{4}$ NE $\frac{1}{4}$
SECTION 2

TOWNSHIP 3 SOUTH, RANGE 5 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 17, 2009

PUBLIC NOTICE DATE: Tuesday, April 7, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, May 3, 2009

Mailing List for IR Copies

Application #S-87365

IR Date: April 3, 2009

Original mailed to applicant:

KENNY UNGER , 9816 BURNETT AVE, NORTH HILLS, CA 91343

Copies sent to:

1. WRD - File # S-87365
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent VIA EMAIL 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.)

Bill Kness, Stuntzner Engineering, 2137 19th Ave, Forest Grove, OR 97116

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.)