



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

BALIN FARM TRUST
DBA BALIN RANCHES
ATTN: SCOTT BALIN
13600 HOMEDALE RD
KLAMATH FALLS, OR 97603

April 10, 2009

Reference: File G-17177

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 1.0 cubic foot per second (CFS) of water from a well (KLAM 52824) for supplemental irrigation use on 76.1 acres from April 1 through October 31 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Under ORS 536.340(1)(a), the Water Resources Commission may establish a basin program to classify sources of water supply as to the highest and best use and quantities of use, and that classification of sources of water supply has the effect of restricting the use and quantities of use thereof to the uses and quantities of uses specified in the classification. The Commission has not established a basin program for the Klamath River basin. Therefore, neither the proposed use nor the quantity of water is restricted as a result of this consideration.
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.

5. The standard allowable rate for supplemental irrigation use from surface water is 1/80 CFS per acre. Your application requested 1.0 CFS for 76.1 acres. If the application is approved, the rate allowed will be limited to 0.95 CFS.

6. You are encouraged to contact Klamath County as you may need to obtain authorization to cross Homeland Road.
7. A well (KLAM 52824) in Upper Klamath Lake Basin is hydraulically connected to the Klamath River which is a Scenic Waterway.
8. The Department has determined there are deficiencies with the application. Please refer to the **Additional Information Required** section below for specific information.

Summary of Initial Determinations

The use of 0.95 CFS of water from a well (KLAM 52824) in Upper Klamath Lake Basin for supplemental irrigation use on 76.1 acres may be allowed during the full period requested, April 1 through October 31.

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 #5 above, your application will likely be limited accordingly.

Additional Information Required:

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend permit approval. Please provide the following:

- The legal description submitted with the application materials included portions of Section 11, Township 40 South, Range 9 East W.M. However, the Department will need a legal description which includes *all* lands where water will be used, where the well is located, and any lands crossed by a conveyance system.

A legal description is a description of a specific parcel of real estate which often uses one of the following methods; government survey metes and bounds, aliquot parts, subdivision block and lot numbers, or a combination of these. It is often found on a deed, land sales contract, or title insurance policy. OAR 690-310-00040(1)(a)(I) requires the legal description of the property from which the water is to be diverted, any property crossed by the proposed ditch, canal or other work, and any property on which the water is to be used as depicted on the map.
- A completed Land Use Information Form signed and dated by a Klamath County official for the property described as Tax Lot 200, Section 13, Township 40 South, Range 9 East, W.M., Tax Lots 1200 and 1300, Section 12, Township 40 South, Range 9 East, W.M. and Tax Lot 600, Section 11, Township 40 South, Range 9 East, W.M. The application demonstrates land-use approval has been obtained for Tax Lot 500, Section 11, Township 40 South, Range 9 East, W.M. The approval status for the property where the well is located and lands crossed by the conveyance system, is unclear.

Please submit this information no later than Thursday, May 14, 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.

If we do not receive the items requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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, April 24, 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 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 Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water-level measurements reveal an average water-level decline of three or more feet per year for five consecutive years; or
- B. Annual water-level measurements reveal a water-level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water-level measurements reveal a water-level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of restricted use shall continue until the water level rises above the decline level which triggered the action or the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or causing substantial interference with senior water rights. The water user shall not allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

5. The well(s) shall be continuously cased and continuously sealed to a minimum depth of 1081 feet below land surface. The well(s) may not be completed in such a manner to allow ground water to be developed from the basin fill materials above the consolidated basalt. If during well construction, it becomes apparent that the well can be constructed to eliminate interference with nearby shallow wells or hydraulically connected streams in a manner other than specified in this permit, the permittee can contact the Department Hydrogeologist for this permit or the Ground Water/Hydrology Section Manager to request approval of such construction. The request shall be in writing, and shall include a rough well log and a proposed construction design for approval by the Department. The request can be approved only if it is received and reviewed prior to placement of any permanent casing and sealing material. If the well is constructed first and then the request made, the requested modification will not be approved. If approved, the new well depth and construction specifications will be incorporated into any certificate issued for this permit.
6. The ground water reference level at Well (KLAM 52824 (well tag L 29451)) shall be 38.6 feet below land surface.
7. 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.

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 503-986-0815 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,



Joel Plahn
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form
G-17177
GW

APPLICATION FACT SHEET

Application File Number: G-17177

Applicant: BALIN FARM TRUST DBA BALIN RANCHES

County: KLAMATH

Watermaster: 17

Priority Date: FEBRUARY 11, 2009

Source: A WELL (KLAM 52824) IN UPPER KLAMATH LAKE BASIN

Use: SUPPLEMENTAL IRRIGATION USE ON 76.1 ACRES

Quantity: 1.0 CUBIC FOOT PER SECOND

Basin Name & Number: Klamath, #14

Stream Index Reference: Volume 1 U KLAMATH L & MISC

Well Location(s): NWNW, SECTION 13, T40S, R9E, W.M.; 200 FEET SOUTH AND 1320 FEET EAST FROM NW CORNER, SECTION 13

Place of Use:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 37.0 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 39.1 ACRES
SECTION 11
TOWNSHIP 40 SOUTH, RANGE 9 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, April 24, 2009

PUBLIC NOTICE DATE: Tuesday, April 14, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, May 14, 2009

Mailing List for IR Copies

Application #G-17177

IR Date : April 10, 2009

Original mailed to applicant:

BALIN FARM TRUST DBA BALIN RANCHES, ATTN: SCOTT BALIN, 13600 HOMEDALE RD KLAMATH FALLS, OR 97603

Copies sent to:

1. WRD - File # G-17177
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 17
4. Department of Agriculture
5. ODFW-Bill Tinniswood
6. DEQ- Eric Nigg
7. STATE PARKS

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

Klamath County Road Department 2121 Washburn Way Klamath Falls, OR 97603

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

Dennis Ensor CWRE # 271

Caseworker: Joel Plahn

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

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