



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

MATHEW BUCHHEIT
6122 BRUSH CREEK RD NE
SILVERTON, OR 97381

April 24, 2009

Reference: File G-17125

Dear Mr. Buchheit:

**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 0.10 cubic foot per second (CFS) of water from Well 1 (MARI 3475) in Pudding River Basin for nursery of 20.1 acres year-round.
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 (MARI 3475) in Pudding 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.
5. The Department has determined, based upon OAR 690-009, that the proposed ground water use of 0.10 CFS will have the potential for substantial interference with Silver Creek and Brush Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is not available June 1 through October 31 of each year. Due to this determination, the use of 0.10 CFS is not allowable.

However, a limited rate of 0.09 CFS *will not* have the potential for substantial interference with any surface water source. Considering 0.09 CFS is only slightly less than what was proposed, the Department will evaluate the application at this rate, which allows a favorable determination. If you disagree with this course of action, please contact me at the number below and we can discuss your options prior to issuance of the Proposed Final Order.

Summary of Initial Determinations

The use of 0.09 CFS from Well 1 (MARI 3475) in Pudding River Basin for nursery of 20.1 acres may be allowed 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.

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, May 8, 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. The well(s) shall only allow water from the alluvial ground water reservoir.
4. 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.
5. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

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 and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well 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.

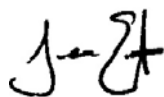
The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance 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.

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 503-986-0859 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: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Jeana Eastman
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

APPLICATION FACT SHEET

Application File Number: G-17125

Applicant: MATTHEW BUCHHEIT

County: Marion

Watermaster: 16

Priority Date: October 21, 2008

Source: WELL 1 (MARI 3475) IN PUDDING RIVER BASIN

Use: NURSERY OF 20.1 ACRES

Quantity: 0.10 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 13 PUDDING R MISC

Point of Diversion or Well Location(s): SWSW, SECTION 28, T6S, R1W, W.M.;1010 FEET NORTH AND 220 FEET EAST FROM SW CORNER, SECTION 28

Place of Use:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 12.9 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 4.2 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.0 ACRES
SECTION 28
TOWNSHIP 6 SOUTH, RANGE 1 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 8, 2009

PUBLIC NOTICE DATE: Tuesday, April 28, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, May 28, 2009

Mailing List for IR Copies

Application #G-17125

IR Date : April 24, 2009

Original mailed to applicant:

MATHEW BUCHHEIT , 6122 BRUSH CREEK RD NE, SILVERTON, OR 97381

Copies sent to:

1. WRD - File # G-17125
2. WRD - Water Availability: Ken Stahr

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

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 16

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

1. Kupillas, Greg, CWRE #432

Pacific Hydro Geology, 18477 S Valley Vista Rd, Mulino OR 97042