



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

HEFFERNAN FAMILY TRUST
ATTN: CHRIS HEFFERNAN
63600 VIEWPOINT LANE
NORTH POWDER, OR 97867

May 8, 2009

Reference: File G-17127

Dear Mr. Heffernan:

**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 to appropriate 9.07 cubic feet per second (CFS) of water from Well 1 and Well 2 (UNIO 52017) in Peach Creek Basin, and Well 3 in Clover Creek Basin, for irrigation of 904.0 acres, being 2.77 CFS on 400.0 acres covered under Permit G-16836 for the purpose of making up a deficiency in rate, and 6.3 CFS on the remaining 504.0 acres, March 1 through October 31.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from Well 1 and Well 2 (UNIO 52017) in Peach Creek Basin and Well 3 in Clover Creek Basin for irrigation use is allowable under the Powder Basin Program.
4. Ground water will not likely be available in the amount requested without injury to prior rights and/or within the capacity of 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 Public Interest Review included the following remark: The applicant spoke with Ground Water Section manager, Doug Woodcock, prior to filing this application. It was understood that a finding that ground water will not likely be available would be made at the time of review. The applicant plans to request an administrative hold following

receipt of the Initial Review. The hold should be of sufficient duration to allow Ground Water staff to collect and analyze data during the 2009 irrigation season. The file will subsequently be re-reviewed and, provided that the current finding can be reversed, appropriate permit conditions will be recommended.

6. The Department has determined 400.0 acres under this application have existing irrigation water rights under Permit G-16386 (Application G-17035). The proposed source of water under this application and Permit G-16386 develop water from the same groundwater aquifer. Because 400.0 acres under Permit G-16386 were not issued for the full rate and duty, the use of 2.77 CFS for the 400.0 acres proposed by this application is allowable for the purpose of making up a deficiency in rate.
7. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Determinations

Because not all items above are favorable, the use of 9.07 CFS from Well 1 and Well 2 (UNIO 52017) in Peach Creek Basin and Well 3 in Clover Creek Basin for irrigation use of 904.0 acres, being 2.77 CFS on 400.0 acres covered under Permit G-16836 and 6.3 CFS on the remaining 504.0 acres, is not allowable and it appears unlikely that you will be issued a permit unless suitable mitigation is provided. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Required:

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval.

1. The application map shows Well 1 and Well 3 in different locations than those indicated on the application map. The application map shows Well 1 within the NWSW, SECTION 34, T5S, R39E, W.M. However, the coordinates state that Well 1 is within SWNW, SECTION 34, T5S, R39E, W.M. The application map shows Well 3 within SWNW, SECTION 27, T5S, R39E, W.M. However, the coordinates state that Well 3 is within NWSW, SECTION 27, T5S, R39E, W.M.
2. The scale on the map reads: 1"=1320'. However, the map is at a scale of 1"=1452'.
3. The hatching within the following quarter-quarters does not cover the entire 40.0 acre quarter-quarter, however the map states irrigation will be used on 40.0 acres:
 - a. SWNW, NWSW, AND SESW, SECTION 27, T5S, R39E, W.M.
 - b. SENE, SECTION 28, T5S, R39E, W.M, and
 - c. NWNE, NENW, AND NWSE, SECTION 34, T5S, R39E, W.M.
4. The map shows hatching within the SWNW, SECTION 27, T5S, R39E, W.M, however no acreage for this quarter-quarter is indicated.

Please provide an updated map such that a) the well locations and coordinates match, b) the scale is accurate, c) the hatching and stated acreage match, and d) hatching within SECTION 27, T5S, R39E, W.M. is removed or acreage is clarified.

Please submit this information no later than **June 11, 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.

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, May 22, 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 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.

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". The signature is written in a cursive, slightly slanted style.

Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17127 * WAB 9- NA * POU 9- NA * GW - NA

APPLICATION FACT SHEET

Application File Number: G-17127

Applicant: HEFFERNAN FAMILY TRUST

County: UNION

Watermaster: 8

Priority Date: OCTOBER 22, 2008

Source: WELL 1 AND WELL 2 (UNIO 52017) IN PEACH CREEK BASIN AND WELL 3 IN CLOVER CREEK BASIN

Use: IRRIGATION USE ON 914.0 ACRES

QUANTITY: 9.07 CUBIC FEET PER SECOND (CFS), BEING 2.77 CFS ON 400.0 ACRES COVERED UNDER PERMIT G-16836 AND 6.3 CFS ON THE REMAINING 504.0 ACRES

Basin Name & Number: Powder, #9

Stream Index Reference: Volume 1 JIMMY CR & MISC

Well Location(s):

WELL 1: NWSW, SECTION 34, T5S, R39E, W.M.; 2640 FEET SOUTH AND 25 FEET EAST FROM NW CORNER, SECTION 34

WELL 2 (UNIO 52017): NWNW, SECTION 34, T5S, R39E, W.M.; 25 FEET SOUTH AND 25 FEET EAST FROM NW CORNER, SECTION 34

WELL 3: SWNW, SECTION 27, T5S, R39E, W.M.; 2254 FEET NORTH AND 60 FEET EAST FROM SW CORNER, SECTION 27

Place of Use:

SW $\frac{1}{4}$ NE $\frac{1}{4}$ 25.0 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 38.0 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 22.0 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 40.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 32.0 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 25.0 ACRES
SECTION 27

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 26.0 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 38.0 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 38.0 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 35.0 ACRES

NW $\frac{1}{4}$ SE $\frac{1}{4}$ 35.0 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 35.0 ACRES
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 35.0 ACRES
SECTION 28

NE $\frac{1}{4}$ NE $\frac{1}{4}$ 30.0 ACRES
NW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ NE $\frac{1}{4}$ 40.0 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.0 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 30.0 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 30.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.0 ACRES
SECTION 34

TOWNSHIP 5 SOUTH, RANGE 39 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 22, 2009

PUBLIC NOTICE DATE: Tuesday, May 12, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, June 11, 2009

Mailing List for IR Copies

Application #G-17127

IR Date: May 8, 2009

Original mailed to applicant:

HEFFERNAN FAMILY TRUST, ATTN: CHRIS HEFFERNAN, 63600 VIEWPOINT LANE, NORTH POWDER, OR 97867

Copies sent to:

- WRD - File # G-17127
- WRD - Water Availability: Ken Stahr

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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IR, Map, and Fact Sheet Copies sent to:

- WRD - Regional Manager: ER
- WRD - Watermaster # 8
- Department of Agriculture

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

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

Molly Reid, GSI Water Solutions, Inc. 1020 N. Center Parkway, Suite F, Kennewick, WA 99336

Caseworker: Brook Geffen

COPYSH.T.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.)