



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

OREGON WILD HARVEST
ATT: RANDAL BURESH
PO BOX 278
SANDY, OR 97055

June 19, 2009

Reference: File G-17216

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 100.0 gallons per minute of water, which is 0.22 cubic foot per second (CFS), from Well 1 and Well 2 in Bowman Creek Basin for nursery use and irrigation use on 16.0 acres from March 1 through October 31, and agriculture use from November 1 through the end of February.
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 in Bowman Creek Basin for irrigation is allowable under the Sandy Basin Program.

The use of water from Well 1 and Well 2 in Bowman Creek Basin for nursery use and agricultural use is not allowable under OAR 690-503-0050(1), the Sandy Basin Program.

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 690-09, that the proposed ground water use will have the potential for substantial interference with Bull Run River. 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. However, by providing additional information you may be able to pursue a limited permit. Please refer to the **Additional Information Opportunity** section below for details.

5. Per ORS 538.420(1) the waters of Bull Run River are withdrawn from further appropriation.

6. The proposed use is located above the Sandy River Scenic Waterway, as designated under Oregon Administrative Rule 736-040-0075.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.22 CFS of water from Well 1 and Well 2 in Bowman Creek Basin for agricultural and nursery uses on 16.0 acres is not allowable, and it appears unlikely that you will be issued a permit.

Because item #4 above is unfavorable, the use of 0.22 CFS of water from Well 1 and Well 2 in Bowman Creek Basin for irrigation of 16.0 acres is not allowable, and it appears unlikely that you will be issued a permit. However, by providing additional information you may be able to pursue a limited permit. At this time, you must decide whether to proceed or to withdraw your application as described below.

Additional Information Opportunity

If you would like to use water for irrigation of 16.0 acres from March 1 through October 31, you may amend your application to reduce the proposed rate to 0.197 CFS. By reducing the rate 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.

Please submit this information no later than Thursday, July 23, 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 additional information 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.

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, July 3, 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.
 - B. The permittee shall keep a complete record of the amount of water used each month, and shall submit a record of the measurement to the Department on a form available from the Department. The record of measurement shall include both measurements and calculations, shall include a certification as to their accuracy signed by the individual making the measurements, and shall be received not later than 30 days from the date of measurement. The Department shall determine when any of the declines cited in section (1) are evidenced by the well measurement required in section (2). 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.
 - C. 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.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
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. (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.
- 4. The well(s) shall only produce ground water from the bedrock ground water reservoir between 150 feet and 400 feet below land surface.
 - 5. 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 be subject to cancellation, unless the Department authorizes the change in writing.
 - 6. 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 503-986-0815 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,

A handwritten signature in black ink, appearing to read 'J Plahn', with a long horizontal stroke extending to the right.

Joel Plahn
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17216
WAB 3-30300101
POU 3-30300101
GW

APPLICATION FACT SHEET

Application File Number: G-17216

Applicant: OREGON WILD HARVEST

County: Clackamas

Watermaster: 20

Priority Date: May 12, 2009

Source: WELL 1 AND WELL 2 IN BOWMAN CREEK BASIN

Use: IRRIGATION, AGRICULTURAL AND NURSERY USES ON 16.0 ACRES

Quantity: 0.22 CUBIC FOOT PER SECOND

Basin Name & Number: Sandy, #3

Stream Index Reference: Volume 2 BULL RUN R & TRIBS

Well Location(s):

WELL 1 - SWSE, SECTION 5, T2S, R5E, W.M.; 1120 FEET NORTH AND 635 FEET EAST FROM S1/4 CORNER, SECTION 5

WELL 2 - SWSE, SECTION 5, T2S, R5E, W.M.; 785 FEET NORTH AND 620 FEET EAST FROM S1/4 CORNER, SECTION 5

Place of Use:

SW $\frac{1}{4}$ SE $\frac{1}{4}$ 16.0 ACRES
SECTION 5
TOWNSHIP 2 SOUTH, RANGE 5 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, July 3, 2009

PUBLIC NOTICE DATE: Tuesday, June 23, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, July 23, 2009

Mailing List for IR Copies

Application #G-17216

IR Date: June 19, 2009

Original mailed to applicant:

OREGON WILD HARVEST ATT: RANDAL BURESH, PO BOX 278, SANDY, OR 97055

Copies sent to:

1. WRD - File # G-17216
2. WRD - Water Availability: Ken Stahr

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

3. WRD - Regional Manager (not SCR):
4. WRD - Watermaster # 20 (include Division 33 form)
5. ODFW: (include Division 33 form)
6. DEQ: (include Division 33 form)

IR, Map, and Fact Sheet Copies sent to:

7. Department of Agriculture
8. State Parks

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

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

ED CRANE

Caseworker: Joel Plahn

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)

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