



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

HUNTER HILL PROPERTIES LLC &
STUKEL MOUNTAIN PROPERTIES LLC
ATTN: JEFFREY AND SANDI HUNTER
7552 E WETHERSFIELD
SCOTTSDALE, AZ 85260

July 24, 2009

Reference: File G-17219

Dear Applicants:

**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 6.28 cubic feet per second (CFS) of water from a well (KLAM 52973) in Lost River Basin for supplemental irrigation use on 502.0 acres from March 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 have the potential for substantial interference with Lost River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is not available December 1 through October 31.

5. The Lost River Decree, allows the use of water for irrigation from March 1 through September 30. If the application is approved, the season allowed for supplemental irrigation will be March 1 through September 30, or further limited by the underlying primary right as determined by the adjudication process.
6. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 6.28 CFS of water from a well (KLAM 52973) in Lost River Basin for supplemental irrigation use on 502.0 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.

Although it is unlikely that a permit will be issued, if the Department's findings change, additional information will be required prior to permit issuance. Please provide the following items:

- an updated map that shows the location of main canals, ditches, pipelines, or flumes; and
- a completed Land Use Information Form or a receipt signed and dated by the relevant planning jurisdiction that states the proposed use of water and location(s) where water will be *diverted*, *conveyed*, and *used* comply with the local acknowledged comprehensive land-use plan. The Land Use Information Form submitted with your application only lists lands where water is proposed to be *used*.

Please submit this information no later than August 27, 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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, August 7, 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 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.
 - C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any 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. 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.

- 4. The ground water reference level at well KLAM 52973 (Well Tag: L 49301) shall be 8.7 feet below land surface.
- 5. **The well shall produce ground water only from consolidated basalt below the basin fill.**

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.

Sin

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

G-17219
WAB 14-
POU 14-
GW

APPLICATION FACT SHEET

Application File Number: G-17219

Applicant: HUNTER HILL PROPERTIES LLC

County: KLAMATH

Watermaster: 17

Priority Date: MAY 13, 2009

Source: A WELL (KLAM 52973) IN LOST RIVER BASIN

Use: SUPPLEMENTAL IRRIGATION USE ON 502.0 ACRES

Quantity: 6.3 CUBIC FEET PER SECOND

Basin Name & Number: Klamath, #14

Stream Index Reference: Volume 2 LOST R

Well Location: SWNE SECTION 8, T40S, R10E, W.M.; SOUTH 49 DEGREES 34 MINUTES
5 SECONDS EAST, 3908 FEET FROM NW CORNER, SECTION 8

Place of Use:

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 18.7 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 39.9 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 13.7 ACRES
SW $\frac{1}{4}$ NW $\frac{1}{4}$ 14.1 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 40.2 ACRES
NE $\frac{1}{4}$ SW $\frac{1}{4}$ 14.0 ACRES
NW $\frac{1}{4}$ SW $\frac{1}{4}$ 0.7 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 38.4 ACRES

SECTION 33

TOWNSHIP 39 SOUTH, RANGE 9 EAST, W.M.

GOV'T LOT 4 36.6 ACRES
SECTION 21

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 21.8 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 2.0 ACRES
SECTION 22

NW $\frac{1}{4}$ NE $\frac{1}{4}$ 7.0 ACRES
SW $\frac{1}{4}$ NE $\frac{1}{4}$ 5.3 ACRES
NE $\frac{1}{4}$ NW $\frac{1}{4}$ 31.8 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 35.9 ACRES
GOV'T LOT 9 28.8 ACRES
SE $\frac{1}{4}$ NW $\frac{1}{4}$ 32.4 ACRES
GOV'T LOT 7 50.1 ACRES
GOV'T LOT 8 14.0 ACRES

GOV'T LOT 6 7.0 ACRES
SECTION 27

GOV'T LOT 4 49.6 ACRES
SECTION 28
TOWNSHIP 40 SOUTH, RANGE 10 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 7, 2009

PUBLIC NOTICE DATE: Tuesday, July 28, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, August 27, 2009

Mailing List for IR Copies

Application #G-17219

IR Date: July 24, 2009

Original mailed to applicant:

HUNTER HILL PROPERTIES LLC, ATTN: JEFFREY HUNTER, 7552 E WETHERSFIELD, SCOTTSDALE, AZ 85260

Copies sent to:

- WRD - File # G-17219
- WRD - Water Availability: Ken Stahr
- WRD - Regional Well Inspector: SC

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

- WRD - Watermaster # 17
- ODFW: (include Division 33 form)
- DEQ: (include Division 33 form)

- Department of Agriculture

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

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

8. John and Constance Frank, 9002 Dehlinger Rd, Klamath Falls, OR 97603
9. Guy and Robin Torgensen, 9990 Dehlinger Rd, Klamath Falls, OR 97603
10. WC Ranch Inc, 17356 Hill Rd, Klamath Falls, OR 97603

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

Caseworker: Brook Geffen

VCOPYSHT.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.)