



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

September 11, 2009

**Certified Mail
Return Receipt Requested**

SUPERSEDING INITIAL REVIEW OF APPLICATION G-17185

KENNETH RASMUSSEN
603 SW LARKSPUR COURT
SUBLIMITY, OR 97385

Reference: File G-17185

Dear Mr. Rasmussen:

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.

This Initial Review supersedes the Initial Review issued April 10, 2009, which was based on erroneous information --- the Department transposed the application number and thus used the incorrect Public Interest Review that addresses the proposed use of ground water under Oregon Administrative Rule (OAR) 690-009. The purpose of this Superseding Initial Review is to review accurately the proposed use of ground water under OAR 690-009.

This document is the Department's preliminary analysis of your water use request called an Initial Review (IR). The purpose of the IR is to make a "first-cut" evaluation of the application, specifically focusing on whether the use is restricted by statute or rule and whether water is available for the proposed use. The IR is also meant to highlight issues and determinations that may preclude approval of the use or that may lead to restrictions.

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 300.0 gallons per minute, or 0.668 cubic foot per second (CFS), of water from Well 1 and Well 2 in Alder Creek Basin for year-round nursery use on 44.6 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.

3. Ground water will likely be available in the amounts requested without injury to prior rights and within the capacity of the resource.
4. The Department has determined, based upon OAR 690-009, that the proposed ground water use from Well 1 will have the potential for substantial interference with Alder Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is not available in the amount requested during the period August 1 through October 31.
5. The Department has determined that, based upon OAR 690-009, Well 1 in Alder Creek Basin will produce ground water from an unconfined alluvial aquifer within a quarter mile of the banks of surface water, and are presumed to be hydraulically connected to the surface water. Such hydraulically-connected ground water is classified the same as the surface water source under OAR 690-502-0240. The use of water from Well 1 in Alder Creek Basin for irrigation and agricultural use are allowable from September 1 through June 30 under OAR 690-502-0110(1)(b).
6. The Department has determined, based upon OAR 690-009, that the proposed ground water use from Well 2 will not have the potential for substantial interference with any surface water source.
7. 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 2 in Alder Creek Basin for year-round nursery use is allowable.

Summary of Initial Determinations

The use of 0.668 CFS from Well 1 and Well 2 in Alder Creek Basin for nursery use on 44.6 acres may be allowed from November 1 through June 30 from Well 1 and year round from Well 2.

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 #6 and 7 above, your application will likely be limited accordingly.

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 \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, September 25, 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 from each well**, 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 well(s) shall produce ground water from the alluvial aquifer.

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 503-986-0816 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: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17185

WAB 2-141

POU 2-141

GW – Well 1 = PSI; Well 2 = NO PSI

APPLICATION FACT SHEET

Application File Number: G-17185

Applicant: KENNETH RASMUSSEN

County: Marion

Watermaster: 16

Priority Date: February 27, 2009

Source: WELL 1 AND WELL 2 IN ALDER CREEK BASIN

Use: NURSERY USE ON 44.6 ACRES

Quantity: 0.668 CUBIC FOOT PER SECOND (CFS)

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 8 ALDER CR

Well Locations:

WELL 1 - SWNW, SECTION 16, T9S, R1E, W.M.;150 FEET NORTH AND 1800 FEET WEST FROM C1/4 CORNER, SECTION 16

WELL 2 - SWSW, SECTION 16, T9S, R1E, W.M.;1420 FEET SOUTH AND 1340 FEET WEST FROM C1/4 CORNER, SECTION 16

Place of Use:

SW $\frac{1}{4}$ NW $\frac{1}{4}$ 8.7 ACRES

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 8.6 ACRES

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 19.7 ACRES

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.1 ACRES

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 6.5 ACRES

SECTION 16

TOWNSHIP 9 SOUTH, RANGE 1 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 25, 2009

PUBLIC NOTICE DATE: Tuesday, September 15, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, October 15, 2009

Mailing List for IR Copies

Application #G-17185

IR Date : September 11, 2009

Original mailed to applicant:

KENNETH RASMUSSEN
603 SW LARKSPUR COURT
SUBLIMITY, OR 97385

Copies sent to:

1. WRD - File # G-17185
2. WRD - Water Availability: Ken Stahr

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

3. WRD - Watermaster # 16
4. ODFW: Karen Hans (Well 1 only)
5. DEQ: Nancy Gramlich (Well 1 only)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture (Well 1 only)

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

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

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

Caseworker: Kerry Kavanagh

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