



# 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

TRUDY LOWERY  
PO BOX 734  
BAKER CITY, OR 97814

December 11, 2009

Reference: File G-17251

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 proposed the appropriation of 65.0 gallons per minute, or 0.14 cubic foot per second (CFS), of water from Well 1 (BAKE 50139) in Old Settlers Slough Basin for irrigation of 8.65 acres from 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 (BAKE 50139) in Old Settlers Slough Basin for irrigation is allowable under the Powder Basin Program.
4. Ground water will likely be available in the amounts requested without injury to prior rights and 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. A portion of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Certificate 49963, which conflicts with your application. Please see the **Conflict Resolution Information** section below for more information.
6. The application proposed a water use rate that is higher than the general basin-wide standard and submitted information that demonstrates the need for the higher rate. Oregon Revised Statute 537.621(4) allows the Department to authorize the requested rate except upon specific findings related to the application to support a determination that a lesser amount is needed. The Department has determined there is a need for the higher rate, being 0.14 CFS.

### Summary of Initial Determinations

**The appropriation of 0.14 CFS from Well 1 (BAKE 50139) in Old Settlers Slough Basin for irrigation of 8.65 acres is allowable during the full period requested, March 1 through October 31.**

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.

#### **Conflict Resolution Information:**

A portion of the area proposed to be irrigated under this application is currently covered by an existing irrigation water right evidenced by Certificate 49963, which conflicts with your application. (See attached Certificate 49963)

If you would like this application to be the primary right, the Department must receive:

- A completed form authorizing cancellation of the conflicting portions of the existing right, along with a map describing those portions; or
- A completed affidavit of diminution of the conflicting portions of the existing right to reduce them to supplemental use, along with a map describing those portions; or
- A transfer application addressing the conflicting portions of the existing right; or
- Another means of dealing with the conflict between the existing right and the use proposed under this application.

If you would like this application to be supplemental to the existing certificate, the Department must receive a revised map showing the place of use of both the primary and supplemental lands. Please note the supplemental lands will be limited and/or jeopardized as follows:

- If the existing right is found to have been forfeited, the use which is supplemental to such certificate may also be canceled.
- You may only use the supplemental right after the primary right becomes unavailable. Water from the primary source must be exhausted first.
- The season of use for the supplemental irrigation will be limited to that of the primary right.

**Please submit this information no later than Thursday, January 14, 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.

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.

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, December 25, 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.
  - 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.
  - C. The Director may require the permittee to keep and maintain a record of the amount (volume) of water used, and may require the permittee to report water use on a periodic schedule as established by the Director. In addition, the Director may require the permittee to report general water-use information, the periods of water use and the place and nature of use of water under the permit.
  - 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.

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](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 flourish extending to the right.

Joel Plahn  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17251  
GW

# APPLICATION FACT SHEET

Application File Number: G-17251

Applicant: TRUDY LOWERY

County: Baker

Watermaster: 8

Priority Date: August 5, 2009

Source: WELL 1 (BAKE 50139) IN OLD SETTLERS SLOUGH BASIN

Use: IRRIGATION OF 8.65 ACRES

Quantity: 0.14 CUBIC FOOT PER SECOND

Basin Name & Number: Powder, #9

Stream Index Reference: Volume 2 POWDER R MISC

Well Location(s): WELL 1 (BAKE 50139) - NWE, SECTION 19, T9S, R40E, W.M.; 1190 FEET SOUTH AND 1155 FEET EAST FROM N1/4 CORNER, SECTION 19

Place of Use:

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$  8.65 ACRES  
SECTION 19  
TOWNSHIP 9 SOUTH, RANGE 40 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, December 25, 2009**

**PUBLIC NOTICE DATE: Tuesday, December 15, 2009**

**30 DAY COMMENT DEADLINE DATE: Thursday, January 14, 2010**

# Mailing List for IR Copies

Application #G-17251

IR Date: December 11, 2009

---

## Original mailed to applicant:

TRUDY LOWERY , PO BOX 734, BAKER CITY, OR 97814

## Copies sent to:

- WRD - File # G-17251
- WRD - Water Availability: Ken Stahr

## IR, Map, and Fact Sheet Copies sent to:

- WRD - Regional Manager (not SCR):ER
- WRD - Watermaster # 8

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

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

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

Caseworker: Joel Plahn

COPYSHT.IR