



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**

FOO YOON CHEN
9495 SW 165TH AVE
BEAVERTON, OR 97007

December 18, 2009

Reference: File G-17281

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 the appropriation of 100.0 gallons per minute, which is 0.22 cubic foot per second (CFS), of water from a well in Butte Creek Basin for irrigation of 16.5 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. The use of water from a well in Butte Creek Basin for irrigation is allowable under the Willamette 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 690-009, that the proposed ground water use will have the potential for substantial interference with Butte Creek. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is not available during the period June 1 through November 30.

5. The standard allowable rate for irrigation use from ground water is 1/80 CFS per acre. Your application requested 0.22 CFS for 16.5 acres. If the application is approved, the rate allowed will be limited to 0.21CFS.
6. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.

7. 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 0.21 CFS of water from a well in Butte Creek Basin for irrigation of 16.5 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

Although it is unlikely that a permit will be issued, if the Department's findings change, additional information will be required prior to issuance of any Proposed Final Order that may recommend approval. The application states you do not currently own the land where you propose to divert, transport, and use water. Please provide the names and addresses of the landowners affected by the application.

Please submit this information no later than Thursday, January 21, 2010. 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, January 1, 2010**. 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 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.
 3. If substantial interference with a senior water right occurs due to withdrawal of water from any well listed on this permit, then use of water from the well(s) shall be discontinued or reduced and/or the schedule of withdrawal shall be regulated until or unless the Department approves or implements an alternative administrative action to mitigate the interference. The Department encourages junior and senior appropriators to jointly develop plans to mitigate interferences.
 4. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

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 and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well 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 non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until 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 senior water rights. The water user shall in no instance 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.

5. The well(s) shall produce ground water only from the alluvial ground water reservoir.

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', written in a cursive style.

Joel Plahn
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17281
WAB 2-69799
POU 2-69799
GW

APPLICATION FACT SHEET

Application File Number: G-17281

Applicant: FOO YOON CHEN

County: Marion

Watermaster: 16

Priority Date: October 30, 2009

Source: A WELL IN BUTTE CREEK BASIN

Use: IRRIGATION OF 16.5 ACRES

Quantity: 0.22 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 15 BUTTE CR

Point of Diversion or Well Location(s): NWSW, SECTION 22, T5S, R1W, W.M.;330 FEET SOUTH AND 250 FEET EAST FROM W1/4 CORNER, SECTION 22

Place of Use:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 16.5 ACRES
SECTION 22
TOWNSHIP 5 SOUTH, RANGE 1 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, January 1, 2010

PUBLIC NOTICE DATE: Tuesday, December 22, 2009

30 DAY COMMENT DEADLINE DATE: Thursday, January 21, 2010

Mailing List for IR Copies

Application #G-17281

IR Date: December 18, 2009

Original mailed to applicant:

FOO YOON CHEN , 9495 SW 165TH AVE, BEAVERTON, OR 97007

Copies sent to:

1. WRD - File # G-17281
2. WRD - Water Availability: Ken Stahr

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

3. WRD - Watermaster # 16 (include Division 33 form)
4. ODFW: (include Division 33 form)
5. DEQ: (include Division 33 form)

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture

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

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

James Schuette CWRE #117

Caseworker: Joel Plahn

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

VCOPYSHT.IR