



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

DAN KELLOGG
KELLOGG KIN INC
2312 SARDINE CREEK RD
GOLD HILL, OR 97525

January 15, 2010

Reference: File G-17287

Dear Mr. Kellogg:

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 0.11 cubic foot per second (CFS) of water from a well (JACK 32837) in Sardine Creek Basin for irrigation use of 8.2 acres 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 a well (JACK 32837) in Sardine Creek Basin for irrigation use is allowable under the Rogue 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 Sardine Creek. 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.

5. On November 17, 2009, you submitted Transfer Application T-10978, which proposes to permanently transfer 14.5 acres of lands under Certificate 16201 in order to offset the impact of water use under this application.

Please note: Determinations regarding completeness and approval of Transfer Application T-10978 will occur separately and are not included in this Initial Review.

6. Prior to permit issuance there is a \$500.00 fee required for applications involving mitigation for impacts to the proposed water source.
7. The proposed use is located above the Rogue Scenic Waterway, as designated under ORS 390.826.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.11 CFS of water from a well (JACK 32837) in Sardine Creek Basin for irrigation use of 8.2 acres is not allowable, and it appears unlikely that you will be issued a permit. However, if you provide suitable mitigation or Transfer Application T-10978 is approved, the use of water for irrigation may be allowable.

At this time, you must decide whether to proceed or to withdraw your application as described below.

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 29, 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. 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.
 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.

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.

Sincerely,

A handwritten signature in black ink that reads "Brook Geffen". The signature is written in a cursive, slightly slanted style.

Brook Geffen
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17287
WAB 15- 275
POU 15- 275
GW

APPLICATION FACT SHEET

Application File Number: G-17287

Applicant: KELLOGG KIN INC

County: JACKSON

Watermaster: 13

Priority Date: NOVEMBER 17, 2009

Source: A WELL (JACK 32837) IN SARDINE CREEK BASIN

Use: IRRIGATION USE OF 8.2 ACRES

Quantity: 0.11 CUBIC FOOT PER SECOND

Basin Name & Number: Rogue, #15

Stream Index Reference: Volume 3A SARDINE CR

Point of Diversion or Well Location(s): SWSW, SECTION 4, T36S, R3W, W.M.; 1260 FEET NORTH AND 423 FEET EAST FROM SW CORNER, SECTION 4

Place of Use:

NW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.1 ACRES
SW $\frac{1}{4}$ SW $\frac{1}{4}$ 1.1 ACRES
SECTION 4
TOWNSHIP 36 SOUTH, RANGE 3 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, January 29, 2010

PUBLIC NOTICE DATE: Tuesday, January 19, 2010

30 DAY COMMENT DEADLINE DATE: Thursday, February 18, 2010

Mailing List for IR Copies

Application #G-17287

IR Date: January 15, 2010

Original mailed to applicant:

KELLOGG KIN INC, ATTN: DAN KELLOGG, 2312 SARDINE CREEK RD, GOLD HILL, OR 97525

Copies sent to:

1. WRD - File # G-17287
2. WRD - Water Availability: Ken Stahr
3. WRD - Regional Manager: SWR
4. Department of Agriculture

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

5. WRD - Watermaster # 13
6. ODFW: Jay Doino
7. DEQ:

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

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

8. Herbert A. Farber, CWRE #45, Farber & Sons, Inc, PO Box 5286, Central Point, OR 97502

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.)