



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

THE KLAMATH TRIBES
ATTN: ROBERTA SEXTON
PO BOX 436
CHILOQUIN, OR 97624

February 12, 2010

Reference: File G-17286

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 0.28 cubic foot per second (CFS) of water from Well 2 in Williamson River Basin, being 0.25 CFS for irrigation of 20.4 acres from April 15 through October 15, 0.02 CFS for year-round domestic use for ten households and 0.01 CFS for year-round commercial.
2. Commercial use of up to 5,000 gallons per day and group domestic use of up to 15,000 gallons per day from a well are exempt from permitting requirements.
3. The proposed use is not prohibited by law or rule except where otherwise noted below.
4. 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.
5. 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 not have the potential for substantial interference with any surface water source.

6. The Department has determined that the proposed ground water use is hydraulically connected to surface waters beyond one mile of the well, and that these waters contribute to Klamath Lake and downstream waters. These downstream waters are over-

appropriated year-round, and the proposed use would further deplete these already over-appropriated surface waters. Therefore, water is not available for the proposed use.

7. The proposed use is located above the Klamath Scenic Waterway, as designated under ORS 390.826.
8. Per ORS 390.835, the Ground Water Section is able to calculate ground water interference with surface water that contributes to the Klamath River Scenic Waterway. However, the proposed use under this application will not individually, or cumulatively with other ground water uses, reduce surface water flows within the scenic waterway in excess of a combined total of one percent of the average daily flow by month or one cubic foot per second, whichever is less (OAR 690-310-260 (11)). Therefore, the Department finds that there *is not* a preponderance of evidence that the proposed use of ground water will measurably reduce the surface water flows necessary to maintain the free-flowing character of the scenic waterway in quantities necessary for recreation, fish and wildlife.
9. The proposed diversion falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
10. The standard allowable rate of water necessary for domestic use for ten household is 0.01 CFS. Your application requested 0.02 CFS. If the application is approved, the rate allowed will be limited to 0.01 CFS.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.28 CFS of water from Well 2 in Williamson River Basin for irrigation of 20.4 acres, domestic use for ten households and commercial uses is not allowable, and it appears unlikely that you will be issued a permit unless suitable mitigation is provided.

The Department would appreciate the opportunity to discuss possible strategies to mitigate for the impacts your proposed use would have on nearby surface water sources.

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, February 26, 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. If the number, location, source, or construction of any well deviates from that proposed in the permit application or required by permit conditions, this permit may be subject to cancellation, unless the Department authorizes the change in writing.
5. 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.

- 6. 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.

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', 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-17286
WAB 14-
POU 14-
GW

APPLICATION FACT SHEET

Application File Number: G-17286

Applicant: THE KLAMATH TRIBES

County: KLAMATH

Watermaster: 17

Priority Date: NOVEMBER 10, 2009

Source: WELL 2 IN WILLIAMSON RIVER BASIN

Use: IRRIGATION OF 20.4 ACRES, DOMESTIC USE FOR TEN HOUSEHOLDS AND COMMERCIAL USES

Quantity: 0.28 CUBIC FOOT PER SECOND (CFS), BEING 0.25 CFS FOR IRRIGATION OF 20.4 ACRES, 0.02 CFS FOR DOMESTIC USE FOR 10 HOUSEHOLDS AND 0.01 COMMERCIAL USE

Basin Name & Number: Klamath, #14

Stream Index Reference: Volume 2A WILLIAMSON R & MISC

Well Location: NWSE, GOV'T LOT 23, SECTION 8, T35S, R7E, W.M.; 1890 FEET NORTH AND 2060 FEET WEST FROM SE CORNER, SECTION 8

Place of Use:

	<u>IRRIGATION</u>	<u>DOMESTIC AND COMMERCIAL USES</u>
NE ¼ SE ¼	3.1 ACRES	X
NW ¼ SE ¼	5.2 ACRES	X
SW ¼ SE ¼	5.2 ACRES	X
SE ¼ SE ¼	6.9 ACRES	X

SECTION 8
TOWNSHIP 35 SOUTH, RANGE 7 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, February 26, 2010

PUBLIC NOTICE DATE: Tuesday, February 16, 2010

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

Mailing List for IR Copies

Application #G-17286

IR Date: February 12, 2010

Original mailed to applicant:

THE KLAMATH TRIBES ATTN: ROBERTA SEXTON, PO BOX 436, CHILOQUIN, OR 97624

Copies sent to:

1. WRD - File # G-17286
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

3. WRD - Watermaster # 17
4. ODFW: Bill Tinniswood
5. DEQ: Eric Nigg
6. State Parks
7. Department of Agriculture
8. WRD - Ruben Ochoa

<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.)

Adkins Consulting Engineers, Inc. 2950 Shasta Way Klamath Falls, OR 97603

Caseworker: Joel Plahn

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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.)