

Oregon Water Resources Department
Water Rights Division

Water Rights Application
Number G-16680

Final Order Incorporating Settlement Agreement

Appeal Rights

This is a Final Order in other than contested case. This order is subject to judicial review under ORS 183.484. Any petition for judicial review must be filed within the 60 day time period specified by ORS 183.484(2). Pursuant to ORS 536.075 and OAR 137-004-0080 you may either petition for judicial review or petition the Director for reconsideration of this order. A petition for reconsideration may be granted or denied by the Director, and if no action is taken within 60 days following the date the petition was filed, the petition shall be deemed denied.

This statement of judicial review rights does not create a right to judicial review of this order, if judicial review is otherwise precluded by law. Where no changes have been made to a Proposed Final Order on a water right application and no protests have been filed during the protest period, the Final Order is not subject to judicial review.

Application History

On June 8, 2006, Arrowood Community Water Co. LLC submitted an application to the Department for a water use permit. On June 5, 2007, the Department issued a Proposed Final Order (PFO), concluding that a permit could be issued with conditions, provided the applicant obtained the required amount of mitigation. On June 26, 2007, the Department issued a Superseding PFO amending the application history to acknowledge the Department's receipt of information from the Huff Group regarding easement for access to the property.

On August 9, 2007, the Huff Group filed a timely protest.

A Settlement Agreement was signed by all parties as of January 11, 2010. The terms of the Settlement Agreement have been incorporated into this Final Order and a copy of the Settlement Agreement is included below.

The proposed use would not impair or be detrimental to the public interest. The Protestant, the Applicant, and the Department have agreed to permit conditions set forth in the draft permit.

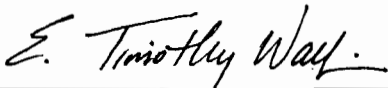
Order

Application G-16680 is therefore approved as proposed by the Superseding Proposed Final Order further modified by the Settlement Agreement. A permit consistent with the attached draft permit shall be issued only upon submission of documentary evidence that 27.2 mitigation credits, or suitable mitigation that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact, have been obtained.

In addition, payment of outstanding fees in the amount of \$900 is required. Said fees are due and payable prior to the issuance of a permit, even if all mitigation obligations have been satisfied.

This Final Order is issued approving application G-16680 contingent upon the required mitigation being provided prior to permit issuance. This Final Order shall expire 5 years after issuance unless the required mitigation is provided under OAR 690-505-0620(2).

DATED April 13, 2010



for Phillip C. Ward, Director
Water Resources Department

This document was prepared by Kerry Kavanagh. If you have any questions about any of the statements contained in this document I am most likely the best person to answer your questions. You can reach me at 503-986-0816.

If you have previously filed a protest and want to know its status, please contact Patricia McCarty at 503-986-0820.

If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801.

Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266, Fax: 503-986-0901.

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF DESCHUTES

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

ARROWOOD COMMUNITY WATER CO., LLC.
250 NW FRANKLIN AVE STE 203
BEND, OR 97701

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16680

SOURCE OF WATER: WELL 1, WELL 2 (DESC 738), WELL 3 (DESC 5259), AND
WELL 4 (DESC 5260) IN DESCHUTES RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USES

MAXIMUM RATE AND VOLUME: 1.34 CUBIC FOOT PER SECOND, LIMITED TO AN
ANNUAL VOLUME OF 51.0 ACRE FEET

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 13, 2007

WELL LOCATIONS:

WELL 1: SW $\frac{1}{4}$ SE $\frac{1}{4}$, SECTION 22, T18S, R11E, W.M.; 1150 FEET NORTH AND
2070 FEET WEST FROM SE CORNER, SECTION 22

WELL 2 (DESC 738): SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 22, T18S, R11E, W.M.; 910 FEET
NORTH AND 2980 FEET WEST FROM SE CORNER, SECTION 22

WELL 3 (DESC 5259): SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 22, T18S, R11E, W.M.; 1090 FEET
NORTH AND 3040 FEET WEST FROM SE CORNER, SECTION 22

WELL 4 (DESC 5260): SE $\frac{1}{4}$ SW $\frac{1}{4}$, SECTION 22, T18S, R11E, W.M.; 960 FEET
NORTH AND 2690 FEET WEST FROM SE CORNER, SECTION 22

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW $\frac{1}{4}$ SE $\frac{1}{4}$
SW $\frac{1}{4}$ SE $\frac{1}{4}$
SE $\frac{1}{4}$ SE $\frac{1}{4}$
SECTION 22

TOWNSHIP 18 SOUTH, RANGE 11 EAST, W.M.

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 well. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month 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.
- 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.

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. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation is maintained.

GROUND WATER MITIGATION CONDITIONS

Mitigation Obligation: 27.2 acre-feet annually in the General Zone of Impact, located anywhere in the Deschutes River Basin above the Madras Gage, which is located below Lake Billy Chinook.

Mitigation Source: 27.2 Mitigation Credits from a chartered mitigation bank, or suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Mitigation water must be legally protected instream for instream use within the General River Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s), will occur if the required mitigation is not maintained.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract,

a copy of which must be on file in the records of the Water Resources Department prior to use of water.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

STANDARD CONDITIONS

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.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Completion of construction and application of the water shall be made within five years of the date of permit issuance. If beneficial use of permitted water has not been made before this date, the permittee may submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____,

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

BEFORE THE OREGON WATER RESOURCES DEPARTMENT

In the Matter of Water Right Application G-16680)
in the name of Arrowood Community)
Water Co., LLC,) **SETTLEMENT**
Applicant) **AGREEMENT**
and)
)
)
The Huff Group,)
Protestant)

The Oregon Water Resources Department ("Department"), Arrowood Community Water Co., LLC ("Applicant") and The Huff Group ("Protestant"), referred to collectively as "the Parties" and each individually as a "Party", do hereby stipulate and agree in this "Settlement Agreement" as follows:

A. Background

1. On June 12, 2006, Arrowood Community Water Co., LLC, submitted an application to the Department for the following water use permit:

Amount of Water: 0.22 CUBIC FOOT PER SECOND (CFS)
Use of Water: QUASI-MUNICIPAL USES
Source of Water: WELL 1, WELL 2 (DESC 738), WELL 3 (DESC 5259), AND WELL 4 (DESC 5260) IN DESCHUTES RIVER BASIN
Area of Proposed Use: DESCHUTES COUNTY within SECTION 22, TOWNSHIP 18 SOUTH, RANGE 11 EAST, W.M.

Arrowood Community Water Co., LLC intends to use the water for the benefit of the real property described in the attached Exhibit A.

2. On December 5, 2006, the Department received information from the agent for the owners of the property (referred to as "the Huff Group") upon which the wells are located. The Huff Group owns the property described in the attached Exhibit B. Mr. Petersen indicated the Huff Group has not granted authorization or easement to Arrowood Community Water Co., LLC. to access these lands.

3. On March 13, 2007, the applicant, through its agent, submitted an amendment to the June 12, 2006 application. The amendment requested the use of 1.34 CFS with a maximum volume of 51.0 acre feet (AF).

4. On March 30, 2007, the Department mailed the applicant its Initial Review, which determined that the proposed wells have the potential for substantial interference with the Deschutes River, and therefore use of 1.34 CFS of water from four wells in the Deschutes River Basin for quasi-municipal use cannot be allowed. The applicant did not notify the Department to stop processing the application within 14 days of that date. The Initial Review included the Notice of Mitigation Obligation for the proposed groundwater use pursuant to the Deschutes Ground Water Mitigation Rules.

5. On April 3, 2007, the Department gave public notice of the application in its weekly notice.
6. On June 5, 2007 the Department issued a Proposed Final Order (PFO) concluding that applicable approval criteria had been met and that a permit could be issued with conditions, after the applicant proposed to obtain the required amount of mitigation.
7. On June 20, 2007, the Department received a request from the Huff Group that the PFO be amended to require the applicant to provide proof of an easement or other formal permission obtained from the Huff Group to access the property.
8. On June 26, 2007 a Superseding PFO was issued amending the history of the application to include acknowledgment of the Department's receipt of the information provided by the Huff Group that it has not granted applicant authorization or easement for access to the property.
9. On August 9, 2007 the Huff Group filed a timely protest to the Superseding PFO stating that the Huff Group owns the real property underlying several of the points of appropriation proposed in the application, and asserting that the applicants did not have written authorization or an easement permitting access to the points of appropriation, as required under OAR 690-310-0030(1)(b) and OAR 690-310-0040(1)(a)(G).
10. On August 16, 2007, the applicant's agent submitted a letter to the Department responding to the protest and asserting that the applicant had provided for the record evidence of a required easement or written authorization obtained from the Association of Unit Owners of the Inn of the Seventh Mountain, which is the Huff Group's Lessee. Applicants further asserted that this easement satisfied all applicable statutes and administrative rules.
11. The Department, the Applicant and the Protestant agree that all issues raised in the protest to the Superseding PFO on Application G-16680 are resolved solely on the following terms.

B. Terms of Agreement

1. The Parties agree that applicant has access to the points of appropriation proposed in the application under the terms of an Easement between the AUO and Arrowood Development, LLC dated June 15, 2006, and recorded in the Official Records of Deschutes County as document number 2006-41514. That Easement is subject to the lease between the Huff Group and the AUO, which is set to expire on January 1, 2070. However, that lease could be terminated earlier in the event of a breach of lease.
2. The Huff Group has not granted applicant authorization or an easement to access the points of appropriation. The Parties do not agree on whether applicant has lawful access to the points of appropriation other than pursuant to the Easement between the AUO and Arrowood Development, LLC.
3. Evidence of the Easement between applicant and AUO is sufficient for purposes of meeting the Department's application requirements under OAR 390-310-0040(1)(a)(G) with respect to access to the points of appropriation during the term of the lease between the Huff Group and the AUO.

4. The Department makes no findings and does not purport to further interpret the nature and scope of the Easement between the AUO and applicant or any other access agreements or easements, nor does the Department purport to confirm or provide access or authorization for use of the real property in question by applicant or the public through its issuance of a Final Order and water right Permit.

5. The Parties reserve the right to address the issue of legal access to the point of appropriation and pursue any remedies allowed under the law.

6. Regarding water right Application G-16680, Protestant and Applicant hereby expressly waive all right and opportunity to file a protest or request for contested case hearing, request for reconsideration, exceptions, or to seek judicial review of the Final Order or Permit, and expressly waive all right and opportunity to challenge this Settlement Agreement.

7. Protestant and Applicant will return a signed settlement agreement to Oregon Water Resources Department, ATTN: Patricia McCarty, 725 Summer St. NE, Suite A, Salem, OR 97301-1266.

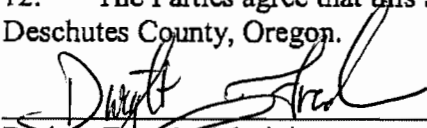
8. Within 30 days after OWRD receives the signed settlement agreements OWRD will issue a Final Order and Permit consistent with the Draft Final Order and Draft Permit attached to this Settlement Agreement. The Final Order will incorporate this Settlement Agreement by reference and as an attachment.

9. Each Party to this Settlement Agreement represents, warrants, and agrees that the person who executes this Agreement on its behalf has the full right and authority to enter into this Agreement on behalf of that Party and bind that Party to the terms of this Settlement Agreement.

10. Each Party to this Settlement Agreement certifies that they have had a reasonable opportunity to review and request changes to the Settlement Agreement, and that they have signed this Settlement Agreement of their own free will and accord. Each Party to this Settlement Agreement also certifies that they have read the entire Settlement Agreement, Draft Final Order, and Draft Permit, and understand and fully agree with the contents thereof.

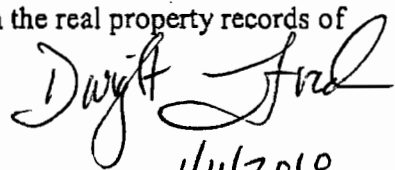
11. This Settlement Agreement may be signed in counterparts, each of which will be deemed an original, and all of which together shall constitute one and the same Settlement Agreement.

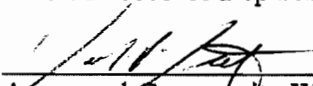
12. The Parties agree that this Settlement Agreement may be recorded in the real property records of Deschutes County, Oregon.



Dwight French, Administrator
Water Rights and Adjudications Division
for Phillip C. Ward, Director
Water Resources Department

10/30/09
Date


11/11/2010



Arrowood Community Water Co., LLC
Applicant

11/13/09
Date

Doris Huff
Doris Huff

12-18-09
Date

Jennifer Huff Beal
Jennifer Huff Beal

12/11/09
Date

Melissa Huff Olson
Melissa Huff Olson

12-18-09
Date

Linda Huff
Linda Huff

12-14-09
Date

Pamela Pruitt
Pamela Pruitt

12/10/2009
Date

William C. Davis
Pioneer Trust Bank, N.A., Trustee
under the will of Lewis Ben Huff, deceased

1-11-2010
Date

~~2009~~²⁰¹⁰ This Instrument was acknowledged before me on this 11 day of Jan,
by DWIGHT FRENCH as Administrator of the Water Rights and Adjudications Division
of the Oregon Water Resources Department.



Before me: Karen E. Royer
Notary Public for Oregon

My Commission Expires 4-2-2011

This Instrument was acknowledged before me on this 13th day of November, 2009 by John P. Lietz as applicant of ARROWOOD COMMUNITY WATER CO., LLC.



Before me: Laura L. Lynn
Notary Public for Oregon

My Commission Expires: Sept 23, 2010

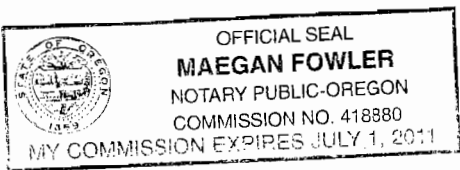
This Instrument was acknowledged before me on this 19th day of December, 2009 by DORIS HUFF.



Before me: Kristi L. Scott
Notary Public for Oregon

My Commission Expires: May 14, 2012

This Instrument was acknowledged before me on this 11 day of December, 2009 by JENNIFER HUFF BEAL.



Before me: Maegan Fowler
Notary Public for Oregon

My Commission Expires: July 1, 2011

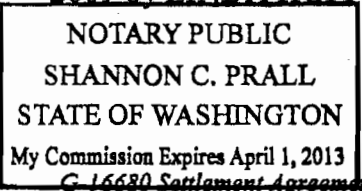
This Instrument was acknowledged before me on this 19th day of December, 2009 by MELISSA HUFF OLSON.



Before me: Kristi L. Scott
Notary Public for Oregon

My Commission Expires: May 14, 2012

This Instrument was acknowledged before me on this 14 day of December, 2009 by LINDA HUFF.



Before me: Shannon C. Prall
Notary Public for Oregon

My Commission Expires: April 1, 2013

This Instrument was acknowledged before me on this 10th day of December, 2009 by PAMELA PRUITT.



Before me: [Signature]
Notary Public for Oregon

My Commission Expires: MARCH 17, 2013

²⁰¹⁰ This Instrument was acknowledged before me on this 1th day of January, 2009 by William Davis as Trust officer of PIONEER TRUST BANK, N.A., trustee under the will of Lewis Ben Huff, deceased.



Before me: Loraine Hansen
Notary Public for Oregon

My Commission Expires: March 27, 2013

DRAFT

This is not a permit.
STATE OF OREGON

DRAFT

COUNTY OF DESCHUTES

DRAFT PERMIT TO APPROPRIATE THE PUBLIC WATERS

THIS DRAFT PERMIT IS HEREBY ISSUED TO

ARROWOOD COMMUNITY WATER CO., LLC.
250 NW FRANKLIN AVE STE 203
BEND, OR 97701

The specific limits and conditions of the use are listed below.

APPLICATION FILE NUMBER: G-16680

SOURCE OF WATER: WELL 1, WELL 2 (DESC 738), WELL 3 (DESC 5259), AND
WELL 4 (DESC 5260) IN DESCHUTES RIVER BASIN

PURPOSE OR USE: QUASI-MUNICIPAL USES

MAXIMUM RATE AND VOLUME: 1.34 CUBIC FOOT PER SECOND, LIMITED TO AN
ANNUAL VOLUME OF 51.0 ACRE FEET

PERIOD OF USE: YEAR ROUND

DATE OF PRIORITY: MARCH 13, 2007

WELL LOCATIONS:

WELL #1: SW ¼ SE ¼, SECTION 22, T18S, R11E, W.M.; 1150 FEET NORTH AND
2070 FEET WEST FROM SE CORNER, SECTION 22

WELL #2 (DESC 738): SE ¼ SW ¼, SECTION 22, T18S, R11E, W.M.; 910 FEET
NORTH AND 2980 FEET WEST FROM SE CORNER, SECTION 22

WELL #3 (DESC 5259): SE ¼ SW ¼, SECTION 22, T18S, R11E, W.M.; 1090
FEET NORTH AND 3040 FEET WEST FROM SE CORNER, SECTION 22

WELL #4 (DESC 5260): SE ¼ SW ¼, SECTION 22, T18S, R11E, W.M.; 960
FEET NORTH AND 2690 FEET WEST FROM SE CORNER, SECTION 22

THE PLACE OF USE IS LOCATED AS FOLLOWS:

NW ¼ SE ¼
 SW ¼ SE ¼
 SE ¼ SE ¼
 SECTION 22
 TOWNSHIP 18 SOUTH, RANGE 11 EAST, W.M.

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 well. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used each month 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.
- 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.

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. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows so long as mitigation is maintained.

GROUND WATER MITIGATION CONDITIONS

Mitigation Obligation: 27.2 acre-feet annually in the General Zone of Impact, located anywhere in the Deschutes River Basin above the Madras Gage, which is located below Lake Billy Chinook.

Mitigation Source: 27.2 Mitigation Credits from a chartered mitigation bank, or suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5), within the General Zone of Impact.

Mitigation water must be legally protected instream for instream use within the General River Zone of Impact and committed for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s), will occur if the required mitigation is not maintained.

If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee the use of water under this right is subject to the terms and conditions of a valid contract, a copy of which must be on file in the records of the Water Resources Department prior to use of water.

The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.

Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

STANDARD CONDITIONS

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.

The wells shall be constructed in accordance with the General Standards for the Construction and Maintenance of Water Wells in Oregon. The works shall be equipped with a usable access port, and may also include an air line and pressure gauge adequate to determine water level elevation in the well at all times.

The use shall conform to such reasonable rotation system as may be ordered by the proper state officer.

Prior to receiving a certificate of water right, the permit holder shall submit the results of a pump test meeting the department's standards, to the Water Resources Department. The Director may require water level or pump test results every ten years thereafter.

Failure to comply with any of the provisions of this permit may result in action including, but not limited to, restrictions on the use, civil penalties, or cancellation of the permit.

This permit is for the beneficial use of water without waste. The water user is advised that new regulations may require the use of best practical technologies or conservation practices to achieve this end.

By law, the land use associated with this water use must be in compliance with statewide land-use goals and any local acknowledged land-use plan.

The use of water shall be limited when it interferes with any prior surface or ground water rights.

Complete application of the water to the use shall be made on or before October 1, 2011. If the water is not completely applied before this date, and the permittee wishes to continue development under the permit, the permittee must submit an application for extension of time, which may be approved based upon the merit of the application.

Within one year after complete application of water to the proposed use, the permittee shall submit a claim of beneficial use, which includes a map and report, prepared by a Certified Water Rights Examiner (CWRE).

Issued _____, 2009

DRAFT - THIS IS NOT A PERMIT

Phillip C. Ward, Director
Water Resources Department

Mailing List for PFO Copies

Application #G-16680

PFO Date June 26, 2007

Original mailed to:

ARROWOOD COMMUNITY WATER CO., LLC., 250 NW FRANKLIN AVE, STE 203,
BEND, OR 97701

Copies sent to:

1. WRD - File # G-16680
2. Water Availability: Ken Stahr
3. WRD - Laura Wilke
4. DRC-Bruce Alyward

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
--

PFO and Map Copies sent to:

(NOTE: please send only one copy per office, even if there is more than one name on the list)

5. WRD - Watermaster # 11
6. ODFW District Biologist: Steve Marx & Clair Kunkle
7. ODFW-Rick Kepler
8. Columbia River Intertribal Fish Commission
9. US Fish & Wildlife
10. NW Power Planning Council
11. DEQ- Eric Nigg, Eastern Region
12. DOA- Salem: Jim Johnson & Paul Measeles
13. State Parks-Jan Houck & Dave Wright
14. Department of State Lands-Nancy Pustis (Bend)

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

Martha O. Pagel, Schwabe, Williams & Wyatt, 530 Center St NE., STE 400, Salem, OR 97301

Kent Dagostino, W&H Pacific, 920 Emkay STE C-100, Bend, OR 97702-1041

Michael C. Petersen, Law Firm, PO Box 1048, Salem, OR 97308-1048

CASEWORKER : jme

Exhibit A

Parcel A

All that portion of land lying within the Southeast Quarter of Section 22, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, and described in Warranty Deed from Century Seventh Mountain Inc. to Association of Unit Owners of the Inn of the Seventh Mountain, per deed recorded February 27, 1980 in Volume 317, Pages 356, Official Records said Deschutes County, lying northerly of the following described line:

Commencing at the Northwest corner of the Southwest quarter, of the Southeast quarter, (SW ¼ SE ¼) of said Section 22;

Thence North 89°53'56" East along the North line of said SW ¼ SE ¼ 362.4 feet;

Thence along the boundary of said land described in said deed the following four courses;

Thence South 11°14'28" East 188.96 feet;

Thence South 51°14'53" East 561.91 feet;

Thence South 00°29'28" East 80.00 feet;

Thence South 77°45'32" West 134.60 feet to the True Point of Beginning;

Thence leaving said boundary, South 17°25'51" East 222.82 feet;

Thence South 75°01'09" East 87.77 feet;

Thence North 87°07'19" East 161.83 feet;

Thence South 59°27'42" East 40.82 feet;

Thence South 86°02'42" East 58.59 feet;

Thence South 69°44'18" East 58.60 feet;

Thence North 79°36'50" East 44.63 feet;

Thence North 42°47'55" East 16.49 feet;

Thence North 63°42'58" East 48.87 feet;

Thence North 66°20'50" East 81.47 feet to the easterly line of said land described in said deed from Century Seventh Mountain Inc. to Association of Unit Owners of the Inn of the Seventh Mountain, said easterly line being the east line of the SW ¼ SE ¼ of said Section 22.

Together with:

Parcel B

All those portions of land, described in Trustee's Deed from Michael Batlin, Trustee for the Bankruptcy Estate of Widgi Creek Golf Club, Inc., to Bhelm, LLC as recorded in Volume 2004, Page 77658, Official Records of Deschutes County, Oregon, lying within the Southeast Quarter of Section 22, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon; more particularly described as follows:

Parcel 1

Commencing at the Southeast 1/16th Corner of said Section 22;

Thence South 0°21'51" West 686.82 feet along the boundary of said Bhelm, LLC land and other land, to the **Point of Beginning**;

Thence continuing along the boundary of said Bhelm, LLC land the following two courses;

North 85°19'39" East 231.00 feet;

North 0°00'00" East 90.00 feet;

Thence leaving the boundary of said Bhelm, LLC land, South 18°44'00" East 182.03 feet to the southerly boundary of said Bhelm, LLC land;

Thence South 74°26'44" West 312.92 feet along said southerly boundary; to the most southerly corner of said Bhelm, LLC land;

Thence North 0°21'51" East 144.18 feet along the boundary of said Bhelm, LLC land to the **Point of Beginning**.

Parcel 2

Beginning at the Southeast 1/16th Corner of said Section 22;

Thence South 89°53'56" West 990.89 feet along the boundary of said Bhelm, LLC land;

Thence leaving the boundary of said Bhelm, LLC land, the following seven courses;

North 11°30'38" West 52.78 feet;

North 86°13'05" East 352.54 feet;

North 82°06'27" East 134.45 feet;

South 83°59'04" East 124.95 feet;

South 82°26'38" East 56.00 feet;

South 81°13'48" East 251.00 feet;

South 69°36'19" East 94.56 feet to the Point of Beginning.

Parcel 3

Commencing at the Southeast 1/16th Corner of said Section 22;

Thence South 89°53'56" West 1264.73 feet along the boundary of said Bhelm, LLC land to the **Point of Beginning**;

Thence continuing along the boundary of said Bhelm, LLC land the following three courses;

~~South 89°53'56" West 80.01 feet;~~

North 0°38'47" East 302.80 feet;

North 74°42'29" East 83.20 feet;

Thence leaving the boundary of said Bhelm, LLC land, South 00°38'47" West 324.60 feet to the Point of Beginning.

Together with:

Parcel C

All that land described in Deed from Elkai Management, LLC, to Dan Andrew, as recorded in Volume 2004, Page 70398, Official Records of Deschutes County, Oregon,

lying within the Southeast Quarter of Section 22, Township 18 South, Range 11 East, Willamette Meridian, Deschutes County, Oregon, more particularly described as follows:

Commencing at the Northeast corner of said Southwest quarter, of the Southeast quarter, (SW $\frac{1}{4}$ SE $\frac{1}{4}$) of said Section 22;

Thence South $00^{\circ}21'51''$ West 201.08 feet along the East line of said SW $\frac{1}{4}$ SE $\frac{1}{4}$, to the most northerly corner of said land described in said deed to Dan Andrew (Andrew Land) and the **Point of Beginning**;

Thence along the boundary of said Andrew Land the following six courses:

Thence South $41^{\circ}19'21''$ East 113.02 feet;

Thence North $45^{\circ}30'00''$ East 56.24 feet;

Thence South $18^{\circ}44'00''$ East 350.00 feet;

Thence South $0^{\circ}00'00''$ East 90.00 feet;

Thence South $85^{\circ}19'39''$ West 231.00 feet;

Thence North $00^{\circ}21'51''$ East 485.71 feet to the Point of Beginning.

EXHIBIT B

PARCEL I: That portion of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty-two (22), TOWNSHIP EIGHTEEN (18) SOUTH, RANGE ELEVEN (11) EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, which is described as follows:

Beginning at the Northwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 22, TOWNSHIP 18 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN; thence South 23° 43' 15" East 826.29 feet; thence South 69° 45' 45" West 305.00 feet; thence North 79° 45' 45" West 300.00 feet; thence South 73° 09' 15" West 855.00 feet; thence North 75° 35' 45" West 276.00 feet to the West line of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section 22; thence along said West line North 00° 48' 25" East 995.28 feet to the Northwest corner of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) of said Section 22; thence along the North line of said Southeast Quarter of the Southwest Quarter, South 89° 40' 45" East 1320.63 feet to the POINT OF BEGINNING, in Deschutes County, Oregon;

EXCEPTING THEREFROM the right of way of the Century Drive Highway, formerly known as the Century Drive Market Road, as the same is now laid out and established over the Northwesterly corner of said Southeast Quarter of the Southwest Quarter of said Section 22.

PARCEL II: That portion of the Southeast Quarter of the Southwest Quarter (SE1/4 SW1/4) and the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty-two (22), TOWNSHIP EIGHTEEN (18) SOUTH, RANGE ELEVEN (11) EAST OF THE WILLAMETTE MERIDIAN, Deschutes County, Oregon, which is described as follows:

Beginning at the Northwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section 22, TOWNSHIP 18 SOUTH, RANGE 11 EAST OF THE WILLAMETTE MERIDIAN; thence South 89° 49' 30" East 362.43 feet along the North line of said Southwest Quarter of the Southeast Quarter, thence South 11° 15' 45" East 200.00 feet; thence South 51° 16' 10" East 561.91 feet; thence South 00° 30' 45" East 80.00 feet; thence South 17° 44' 15" West 417.00 feet; thence South 69° 45' 45" West 108.00 feet; thence North 23° 43' 15" West 826.29 feet to the POINT OF BEGINNING, all in Deschutes County, Oregon.