



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

July 30, 2010

TODD DAVIS
1137 ENSTAD LANE
SILVERTON, OR 97381

Reference: File G-17386

Dear Mr. Davis:

**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 0.99 cubic foot per second (CFS) of water from Well 1 (WASC 3414) and Well 2 (proposed) in Eightmile Creek Basin for irrigation of 79.5 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 (WASC 3414) and Well 2 (proposed) in Eightmile Creek Basin for irrigation is allowable under the Hood Basin Program.
3. Ground water is over-appropriated and will **not likely** be available in the amounts requested without injury to prior rights and/or within the capacity of the resource.

The Department has determined, based upon OAR 690-009, that the proposed ground water use from Well 2 (well depth proposed at 238 feet) will have the potential for substantial interference with Eightmile 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.

4. The proposed appropriation from Well 2 falls within a high priority area for streamflow restoration under the Oregon Plan for Salmon & Watersheds.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.99 CFS of water from Well 1 (WASC 3414) and Well 2 (proposed) in Eightmile Creek Basin for irrigation of 79.5 acres is not allowable, and it appears unlikely that you will be issued a permit unless a suitable mitigation proposal is provided prior to issuance of the Proposed Final Order.

You may consider the option of constructing proposed Well 2 into a deeper aquifer. The deeper well would need to be cased and sealed to a minimum depth of about 300 feet. If you wish to pursue this option, a set of conditions would need to be developed to prevent hydraulic connection to Eightmile Creek and to construct a well that does not allow borehole flow, either upwards or downwards. In addition, you will need to submit examination fees in the amount of \$250. At this time, you must decide whether to proceed or to withdraw your application as described below.

If you would like to pursue drilling Well 2 into a deeper aquifer, please submit your request in writing and additional examination fees in the amount of \$250 no later than Thursday, August 26, 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.

If we do not receive the item requested above or a request for an administrative hold by this date, the Department will likely proceed with a Proposed Final Order recommending denial of the application.

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, August 13, 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 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.
 - C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - 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.

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 503-986-0816 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: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-17386
WAB 4-70252
POU 4-70252
GW

APPLICATION FACT SHEET

Application File Number: G-17386

Applicant: TODD DAVIS

County: Wasco

Watermaster: 3

Priority Date: May 21, 2010

Source: WELL 1 (WASC 3414) AND WELL 2 (PROPOSED) IN EIGHTMILE CREEK BASIN

Use: IRRIGATION OF 79.5 ACRES

Quantity: 0.99 CUBIC FOOT PER SECOND

Basin Name & Number: Hood, #4

Stream Index Reference: Volume 2 EIGHTMILE CR & MISC

Well Locations:

WELL 1 (WASC 3414) - NWNE, SECTION 30, T1S, R13E, W.M.; 160 FEET SOUTH AND 2080 FEET WEST FROM NE CORNER, SECTION 30

WELL 2 (PROPOSED) - NWNE, SECTION 30, T1S, R13E, W.M.; 240 FEET SOUTH AND 2160 FEET WEST FROM NE CORNER, SECTION 30

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 20.0 ACRES
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 14.0 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 16.5 ACRES
SECTION 19

SW $\frac{1}{4}$ SW $\frac{1}{4}$ 7.0 ACRES
SE $\frac{1}{4}$ SW $\frac{1}{4}$ 1.0 ACRE
SECTION 20

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 9.0 ACRES
NW $\frac{1}{4}$ NW $\frac{1}{4}$ 9.0 ACRES
SECTION 29

NE $\frac{1}{4}$ NW $\frac{1}{4}$ 3.0 ACRES
SECTION 30

TOWNSHIP 1 SOUTH, RANGE 13 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, August 13, 2010

PUBLIC NOTICE DATE: Tuesday, August 3, 2010

30 DAY COMMENT DEADLINE DATE: Thursday, September 2, 2010

Mailing List for IR Copies

Application #G-17386

IR Date: July 30, 2010

Original mailed to applicant:

TODD DAVIS
1137 ENSTAD LANE
SILVERTON, OR 97381

Copies sent to:

1. WRD - File # G-17386
2. WRD - Water Availability: Ken Stahr

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

3. WRD - Regional Manager: NC
4. WRD - Watermaster # 3
5. ODFW: Rod French
6. DEQ: Eric Nigg

IR, Map, and Fact Sheet Copies sent to:

7. Department of Agriculture
8. Columbia River Intertribal Fish Commission, Julie Carter,
729 NE Oregon St, Ste 200, Portland OR 97232
9. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
10. NW Power Planning Council, Fish & Wildlife Division, Karl Weist
851 SW Sixth Ave, Ste 1020, Portland OR 97204
11. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson
PO Box 638, 73239 Confederated Way, Pendleton, OR 97801
12. National Marine Fisheries Service, Spencer Hovekamp
3502 Hwy 30, La Grande, OR 97850

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

13. Wasco County Road Department, 2705 # 2nd, The Dalles, OR 97058

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

Caseworker: Kerry Kavanagh

VCOPYSH.T.IR

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