



# 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**

BRUCE AND JEANNE STRANGE  
42041 CUPPER CREEK RD  
KIMBERLY, OR 97848

September 3, 2010

Reference: File R-87645

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 storage of 4.1 acre feet (AF) of water, being 0.1 AF in existing pond and 4.0 AF in proposed pond, from Cupper Creek, a tributary of Dry Creek, and North Fork John Day River, a tributary of John Day River, for multiple purpose to include irrigation, fire protection, wildlife, aesthetics, and other uses.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The storage of water from Cupper Creek, a tributary of Dry Creek, and North Fork John Day River, a tributary of John Day River, for "multiple purpose", aesthetics, or "other uses" is not allowable under the John Day Basing Program.

However, the storage of water for other uses listed in the application, specifically irrigation, fire protection, and wildlife is allowable.

In addition, domestic, livestock, ground water recharge, fish life, pollution abatement, and recreation are allowed under the John Day Basin Program. If you would like to amend the application to include any of these other uses that are allowed, please send your written request by Thursday, September 23, 2010.

4. Surface water is available December 1 through June 30.
5. OAR 690-033-0120(2) prohibits the diversion of water from April 15 through September 30 of each year.

6. The proposed use is located above the John Day Scenic Waterway, as designated under Oregon Revised Statute 390.826.
7. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

### **Summary of Initial Determinations**

**The storage of 4.1 AF of water, being 0.1 AF in existing pond and 4.0 AF in proposed pond, from Cupper Creek, a tributary of Dry Creek, and North Fork John Day River, a tributary of John Day River, for irrigation, fire protection, and wildlife, is allowable December 1 through April 14.**

Because of these favorable determinations, the Department can now move your application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

### **Additional Information Required:**

Additional information is required to process your application prior to issuance of any Proposed Final Order that may recommend approval. Please provide the following items:

- The location of the pump in North Fork John Day River by reference to a recognized public land survey corner. The location may be shown by distance and bearing or by coordinates (distance north or south and distance east or west from the corner).
- The area submerged by each reservoir. The application materials indicated a total of 0.4 acre will be inundated, however, the Department requests the specific acreage for each reservoir.
- Preliminary plans, specifications and supporting information for the dam and impoundment area including width and crest width.

**Please submit this information no later than Thursday, October 7, 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 items 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.

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.

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, September 17, 2010**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:

- A. The Director may require the permittee to install a staff gage that measures the entire range and stage between full reservoir level and dead pool level in the reservoir. The staff gage shall be United States Geological Survey style porcelain enamel iron staff gage style A, C, E or I.
- B. The Director may require the permittee to install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion.
- C. If the Director notifies the permittee to install a staff gage, totalizing flow meter or other measuring device, the permittee shall install such device within the period stated in the notice. Such installation period shall not be less than 90 days unless special circumstances warrant a shorter installation period. Once installed, the permittee shall maintain the staff gage, meter and/or measuring device in good working order and shall allow the watermaster access to the staff gage, meter and/or measuring device.
- D. 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.
- E. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

2. Diversion of water under this permit is contingent on designated scenic waterway flows being met downstream. The user is required to monitor streamflow at John Day River at McDonald Ferry, Oregon, gage 14048000, and discontinue diversion when the flows specified below are unmet. At the discretion of the Director, the location and nature of streamflow monitoring required to protect scenic waterway flows is subject to change. In addition, the watermaster may regulate diversion under this right if it is determined by the Department that the flows listed below are unmet.

John Day Scenic Waterway	
Month	Minimum Bypass Flow (cubic feet per second)
December	500
January	500
February	1000
March 1- April 14	2000

3. The storage of water allowed herein is subject to the installation and maintenance of an outlet pipe (with a minimum diameter of 8" for any in-channel reservoir). This requirement may be waived if the Department determines other means have been provided to evacuate water when necessary.
4. The permittee shall pass all live flow outside the storage season described above.
5. This permit allows an annual appropriation (not to exceed the specified volume). This permit does not provide for the appropriation of water for out-of-reservoir uses, the maintenance of the water level or maintaining a suitable freshwater condition. If any water is to be used for out-of-reservoir purposes, a secondary water right is required. If any additional live flow is to be appropriated to maintain either the water level or a suitable freshwater condition, an additional water right is required.
6. The permittee shall not construct, operate or maintain any dam or artificial obstruction to fish passage in the channel of the subject stream without providing a fishway to ensure adequate upstream and downstream passage for fish, unless the permittee has requested and been granted a fish passage waiver by the Oregon Fish and Wildlife Commission. The permittee is hereby directed to contact an Oregon Department of Fish and Wildlife Fish Passage Coordinator, before beginning construction of any in-channel obstruction.
7. The Director may require the user to measure inflow and outflow, above and below the reservoir respectively, to ensure that live flow is not impeded outside the storage season. Measurement devices and their implementation must be acceptable to the Director, and the Director may require that data be recorded on a specified periodic basis and reported to the Department annually or more frequently.
8. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.

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](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 503-986-0859 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: Jeana Eastman, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,



Jeana Eastman  
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

R-87645  
WAB 6-69960  
POU 6-69960  
GW

# APPLICATION FACT SHEET

Application File Number: R-87645

Applicant: BRUCE AND JEANNE STRANGE

County: Grant

Watermaster: 4

Priority Date: July 28, 2010

Source: CUPPER CREEK, A TRIBUTARY OF DRY CREEK, AND NORTH FORK JOHN DAY RIVER, A TRIBUTARY OF JOHN DAY RIVER

Use: MULTIPLE PURPOSE TO INCLUDE IRRIGATION, FIRE PROTECTION, WILDLIFE, AESTHETICS, AND OTHER USES

Quantity: 4.10 ACRE FEET (AF), BEING 0.1 AF IN EXISTING POND AND 4.0 AF IN PROPOSED POND

Basin Name & Number: John Day, #6

Stream Index Reference: Volume 2 CUPPER CR & MISC

Point of Diversion or Well Location(s):

EXISTING POND: NWE, SECTION 8, T9S, R27E, W.M.; 150 FEET SOUTH AND 2590 FEET WEST FROM NE CORNER, SECTION 8

PROPOSED POND: NWE, SECTION 8, T9S, R27E, W.M.; 510 FEET SOUTH AND 2590 FEET WEST FROM NE CORNER, SECTION 8

Place of Use:

NW  $\frac{1}{4}$  NE  $\frac{1}{4}$   
SECTION 8  
TOWNSHIP 9 SOUTH, RANGE 27 EAST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, September 17, 2010**

**PUBLIC NOTICE DATE: Tuesday, September 7, 2010**

**30 DAY COMMENT DEADLINE DATE: Thursday, October 7, 2010**

# Mailing List for IR Copies

Application #R-87645

IR Date: September 3, 2010

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**Original mailed to applicant:**

BRUCE AND JEANNE STRANGE , 42041 CUPPER CREEK RD, KIMBERLY, OR 97848

Copies sent to:

1. WRD - File # R-87645
2. WRD - Water Availability: Ken Stahr

sent via email

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

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>
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IR, Map, and Fact Sheet Copies sent to:

6. WRD - Regional Manager (not SCR): NC
7. State Parks
8. Department of Agriculture
9. Columbia River Intertribal Fish Commission, Julie Carter,  
729 NE Oregon St, Ste 200, Portland OR 97232
10. US Fish & Wildlife Service, Gary Miller, 3502 Hwy 30, La Grande, OR 97850
11. NW Power Planning Council, Fish & Wildlife Division, Karl Weist  
851 SW Sixth Ave, Ste 1020, Portland OR 97204
12. Confederated Tribes of the Umatilla Indian Reservation, Carl Merkle or Jennifer Hudson  
PO Box 638, 73239 Confederated Way, Pendleton, OR 97801
13. National Marine Fisheries Service, Spencer Hovekamp  
3502 Hwy 30, La Grande, OR 97850

Caseworker: Jeana Eastman

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