

September 14, 2010

Kerry Kavanaugh
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271

**Re: Bend Metro Park and Recreation District
Groundwater Permit Application – Riverbend Park
OWRD File G-17079
WHP File No.: 35626.1200**

RECEIVED
SEP 16 2010
WATER RESOURCES DEPT
SALEM, OREGON

Kerry:

Thank you for your recent letter regarding Mitigation Credits and land use planning for the proposed groundwater right at Riverbend Park in Bend. As stated in the original July, 2008 application cover letter, the Park District has anticipated the mitigation requirement for a groundwater right. We have attached the completed Notice of Mitigation Obligation Credit form.

In your letter you asked that we demonstrate the following:

1. "provide documentation that demonstrates the proposed use at the requested rate of 0.289cfs complies with the local acknowledged comprehensive land-use plan."
2. "the Department must receive documentation from the relevant planning jurisdiction that an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded."

We have submitted a new Land Use Information Form to City of Bend Planning with the requested instantaneous pumping rate of 0.289cfs and received signature from that department. The signed Land Use form is attached. Additionally, we have attached the final land use decision for Riverbend Park. These documents demonstrate the use complies with land-use planning, and that a final land-use decision has been obtained. The final land use decision indicates no appeals were filed for the land use. The park is built and land use planning process for the park is concluded.

BMPRD is fully committed to providing a valuable recreational and aesthetic asset to Bend with the construction of Riverbend Park while continuing to use water efficiently, without waste. Please consider the enclosed documents and our request for a permit to use groundwater. We appreciate your assistance and look forward to your review and response.

Very truly yours,

WHPacific, Inc.


Niall Boggs, PE, CWRE

Cc: Dave Crowther

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WATER RESOURCES DEPT
SALEM, OREGON

**RESPONSE TO NOTICE OF MITIGATION OBLIGATION
CREDIT OR PROJECT OPTION**

A mitigation obligation may be satisfied by obtaining mitigation credits, providing for implementation of a mitigation project, or both (OAR 690-505-0610(2)). Please read and complete this acknowledgment of mitigation obligation and return it to the Department.

Applicant(s): BEND METRO PARKS & RECREATION DISTRICT; ATTENTION: DON HORTON

Applicant's agent (if applicable): WH PACIFIC INC.; NIALL BOGGS OR THOMAS WALKER

Application number: G-17079

Proposed Use: IRRIGATION OF 8.0 ACRES

Period of Use: MARCH 15 THROUGH OCTOBER 15

Rate requested: 0.289 CUBIC FOOT PER SECOND

Volume requested: 24.0 acre-feet (3.0 acre-feet per acre)

Mitigation Obligation: 14.4 acre-feet

Zone of Impact: General Zone of Impact

Please read and initial the following statements:

NB I/We intend to provide mitigation in the amounts noted above and in the appropriate zone of impact.

NB I/We understand that mitigation must be provided within five years of issuance of the final order.

The source of mitigation water will be (please check):

Purchase mitigation credits and / or A mitigation project resulting in credits

Please describe the type of project (e.g., transfer, etc.) and any associated water-right certificate, if known:

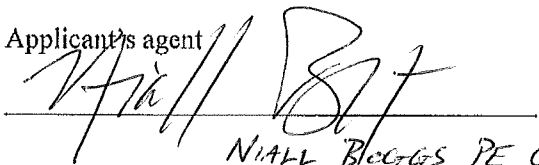
WE ARE CURRENTLY EXPLORING ALL MITIGATION
OPTIONS. LIKELY WE WILL PURCHASE A PORTION OF
THE CREDITS, WITH THE POSSIBILITY OF A
MITIGATION PROJECT

I understand that I must provide mitigation credits in the amount noted, or a suitable replacement mitigation that meets the requirements of OAR 690-505-0610(2)-(5) in the appropriate zone of impact.

Applicant(s)

or

Applicant's agent



NIALL BLOO, PE, CWRE

Date Sept. 14, 2010

Telephone Number: 541-312-2540

Mail to: Attn:
Oregon Water Resources Department
725 Summer St NE Suite A
Salem OR 97301-1266

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WATER RESOURCES DEPT
SALEM, OREGON



Oregon

Theodore R. Kulongoski, Governor

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SEP 13 2010

WHPacific, Inc.

Niall Boggs

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**

BEND METRO PARKS & RECREATION DISTRICT
ATTENTION: DON HORTON
799 SW COLUMBIA STREET
BEND, OR 97702

September 10, 2010

Reference: File G-17079

Dear Mr. Horton:

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WATER RESOURCES DEPT
SALEM, OREGON

On October 23, 2009, the Water Resources Department issued an Initial Review by certified mail which included the following form: Response to Notice of Mitigation Obligation Credit or Project Option form was included. The form stated: *A mitigation obligation may be satisfied by obtaining mitigation credits, providing for implementation of a mitigation project, or both (OAR 690-505-0610(2)). Please read and complete this acknowledgment of mitigation obligation and return it to the Department.* However, as of the date of this letter, the Department has not received a completed form from you. A new copy of the Notice of Mitigation Obligation Credit or Project Option form is included for your convenience.

On November 23, 2009, the Department received comments from the City of Bend (City) that were not supportive of the proposed use. Specifically, the City noted that the Land Use Information Form (Form) completed and signed on July 1, 2008 by Amy Barry, Associate Planner for the City, described the proposed rate as 44.88 gallons per minute, or 0.10 cubic foot per second (CFS), which is less than the rate of 0.289 CFS proposed in your July 9, 2008 application form. In addition, the Form indicated that conditional use had been obtained but did not address whether all appeal periods had passed. Thus, please provide documentation that demonstrates the proposed use at the requested rate of 0.289 CFS complies with the local acknowledged comprehensive land-use plan, or that you are actively pursuing approval from the City. Before a permit will be issued the Department must receive documentation from the relevant planning jurisdiction that an approved land-use decision has been obtained, and that either no administrative appeals were received, or all such appeals have concluded.

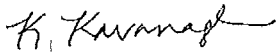
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Please submit the Notice of Mitigation Obligation Credit or Project Option form no later than **October 12, 2010**. If you need to request additional time to submit the above required information, the request must be received in the Salem office of the Department by the deadline above. The Department will evaluate timely requests and determine whether or not the request may be granted. If we do not receive the requested information or a request for additional time by the above date, the Department will likely proceed with a Proposed Final Order recommending **denial** of the application.

If you have any questions, please feel free to call me at 503-986-0816.

Sincerely,



Kerry Kavanagh
Water Rights Caseworker

enclosure: Response to Notice of Mitigation Obligation Credit or Project Option

cc: WM# 11
File
Niall Boggs, W & H Pacific, 123 SW Columbia Street, Bend, OR 97702