

Jeana Eastman

From: Laura Wilke
Sent: Wednesday, March 21, 2012 3:59 PM
To: Jeana Eastman
Subject: FW: Application G-16385; Thornburgh Utility Group, LLC
Attachments: Amended Mitigation Plan Package.pdf

From: David Newton [<mailto:dnewton@newtonconsultants.com>]
Sent: Wednesday, March 14, 2012 12:06 PM
To: Laura Wilke
Cc: 'Kameron DeLashmutt'
Subject: Application G-16385; Thornburgh Utility Group, LLC

Laura:

I hope your day is going well.

Attached is a pdf package that includes:

1. Amended Incremental Mitigation Plan responding to mitigation requirement of the Final Order for Application G-16385;
2. Documentary Evidence form for established mitigation, completed and signed by Deschutes River Conservancy and Thornburgh Utility Group, LLC representatives;
3. Letter by Thornburgh Utility Group, LLC authorizing David Newton as its agent in regard to this matter and water right

We are mailing a hard copy of the package to you.

Please contact me if you have any questions. Thank you for your help with this Laura.

David

David Newton, P.E., C.E.G., C.W.R.E.

Principal – CEO



P.O. Box 1728
1937 N Business 97
Redmond, Oregon 97756
541 325-3905 *cell*
541 504-9960 x211 *office*
541 504-9961 *fax*

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March 12, 2012
Project No. 1130-101

Ms. Laura Wilke, Flow Restoration Program Coordinator
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1271

APPLICATION G-16385; AMENDMENT TO INCREMENTAL PERMIT DEVELOPMENT PLAN AND INCREMENTAL MITIGATION PLAN

Dear Laura:

The Final Order in connection with Application G-16385 is held by Thornburgh Utility Group, LLC. Loyal Lands, LLC filed a Request for Assignment of this Application. The request was approved by the Oregon Water Resources Department (OWRD) and the assignment was made accordingly; however, the assignment has since been rescinded and the Application correctly remains held by Thornburgh Utility Group, LLC.

AMENDMENT NEED – INCREMENTAL MITIGATION PLAN

Development plans for the Thornburgh Resort have been delayed due to many factors including the economy, finance issues, property foreclosure issues and other related legal proceedings. Most of these factors are beyond the control of Thornburgh Utility Group, LLC and prevent it from executing its water development plan and the related incremental mitigation plan as stipulated in the Final Order. Consequently, the development plan and incremental mitigation plan must be amended to account for these conditions.

EXISTING DEVELOPMENT PLAN & INCREMENTAL MITIGATION PLAN

The existing incremental mitigation plan is described in the document “*Revised Incremental Mitigation Plan for Thornburgh Utility Group (Thornburgh Resort).*” This revised plan is based on negotiations and an agreement reached with WaterWatch of Oregon, resolving a protest filed by WaterWatch against the application. The revised plan specifies 1,356 acre-feet (credits) of total mitigation obligation to be achieved in two phases of water development and related mitigation. The Phase A mitigation obligation is 610 acre-feet (credits) and the Phase B mitigation obligation is 746 acre-feet (credits).

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An amendment to the existing development plan and mitigation plan must account for the type of water use and related volume and consumptive use to arrive at an amended mitigation obligation. The water uses planned by Thornburgh Utility Group, LLC and specified in the existing mitigation plan include: 1) Golf Course Irrigation; 2) Standard Irrigation; 3) Reservoir Maintenance; and 4) Other Quasi-Municipal Use. The proposed amendment is based on the "Standard Irrigation" use with a permanent duty of 3.0 acre-feet per acre per year and consumptive use at 60 percent of the maximum permanent duty. This translates to 1.8 acre-foot of consumptive water use per acre of standard irrigation.

PROPOSED AMENDMENT

Thornburgh Utility Group, LLC is continuing its efforts to resolve matters that have impeded progress in water development. Together with these efforts, Thornburgh Utility Group, LLC plans to implement an amended initial phase (Increment 1) of water development and related mitigation.

Increment 1 water development and mitigation is planned for "standard irrigation" on up to 2 acres of land. Accordingly, the required Increment 1 mitigation obligation is 3.6 acre-feet (credits). The 3.6 acre-feet (credits) of mitigation for this Increment 1 apply to the Phase A mitigation obligation of 610 acre-feet (credits) stated in the above-referenced "*Revised Incremental Mitigation Plan for Thornburgh Utility Group, LLC*", for a remaining Phase A mitigation obligation of 606.4 acre-feet (credits). Phase B mitigation obligation remains unchanged at 746 acre-feet (credits).

DEVELOPMENT PLANNING – Time Frame

The economy in the upper Deschutes Basin remains depressed at this time. However, Thornburgh Utility Group, LLC continues its negotiation and planning efforts to develop and utilize water according to the Final Order and the Settlement Agreement terms. The proposed amendment is necessary to accommodate the scale of development at this time, under the present circumstances that are driving the need for plan amendment as described above. Although Phase A and Phase B development efforts are contemplated to begin before 2017, continued economic uncertainty at this time indicate that additional plan amendments may be necessary.

INCREMENT 1 MITIGATION ACTIONS

The required mitigation obligation of 3.6 acre-feet (credits) for Increment 1 has been satisfied and the mitigation requirement stipulated in the Final Order has been satisfied through the Deschutes River Conservancy Mitigation Bank as evidenced by the attached Documentary Evidence Form for Mitigation Banks.

CLOSURE

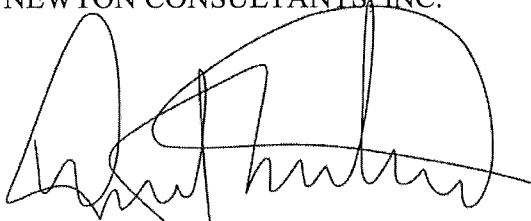
We trust that the OWRD will find that the proposed amendment to the development plan and incremental mitigation plan is acceptable and will approve it, considering the circumstances

resulting from economic and the other factors described herein, many of which are beyond Thornburgh Utility Group, LLC control.

Please contact me, as agent for Thornburgh Utility Group, LLC on water rights matters, if you have any questions regarding this amendment proposal.

Sincerely,

NEWTON CONSULTANTS, INC.

A handwritten signature in black ink, appearing to read 'David J. Newton', written over a horizontal line.

David J. Newton, P.E., C.E.G., C.W.R.E.
President

Enclosure (1)

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Oregon

John A. Kitzhaber, MD, 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

OREGON WATER RESOURCES DEPARTMENT DESCHUTES BASIN MITIGATION CREDIT DOCUMENTARY EVIDENCE FORM FOR MITIGATION BANKS

This form is to be completed by a Mitigation Bank when mitigation credits are obtained from a mitigation bank by a ground water application/permit/certificate holder to satisfy a mitigation obligation under the Deschutes Ground Water Mitigation rules.

Ground Water User Information:

Name: Thornburgh Utility Group, LLC
Mailing Address (Street, City, State, Zip): 2447 NW Canyon, Redmond, OR 97756
Phone Number (Home and Work): 541-350-8479 E-Mail (optional): kameron@bendcable.com
Ground Water Application, Permit, or Certificate #: G-16385
Mitigation Obligation (amount) (see Notice of Mitigation Obligation or Initial Review for this information): 3.6 credits - 1st increment
Zone of Impact (see Notice of Mitigation Obligation or Initial Review for this information): General

Mitigation Bank Information:

Mitigation Bank Name: Deschutes River Conservancy Mitigation Bank
Mailing Address: P.O. Box 1560, Bend, OR 97709
Phone Number: 541-382-4077 E-Mail (optional): gen@deschutesriver.org

Mitigation Credit Information:

In the following table, identify the mitigation project identification number(s), the number of credits assigned from each mitigation project, the zone of impact in which the credits are to be used (note - many credits may be used within more than one zone of impact) and the type of mitigation project upon which the credits are based (The Mitigation Bank shall notify purchasers of mitigation credits of the category of credits purchased. The Bank shall state if the credits are temporary or whether subject to the continued maintenance of a mitigation project. By Charter agreement, the Mitigation Bank has assumed an obligation to maintain or replace mitigation credits based on non-permanent mitigation projects.). Project Type Codes: Instream Lease = ISL Time-Limited Instream Transfer = TLT Allocation of Conserved Water = ACW
Permanent Instream Transfers = PT Storage Release = SR Aquifer Recharge = AR
Other = Other (if other, please describe under project type in space provided below)

<u>Mitigation Project ID</u>	<u># Mitigation Credits Assigned</u>	<u>Zone of Impact</u>	<u>Mitigation Project Type Code (see above)</u>
MP-151	3.6	General	ISL
MP-_____	_____	_____	_____

Add additional mitigation projects and credits below using above format:

Mitigation Project Operator (if other than original credit holder): _____ (for example, name of storage project or aquifer recharge project operator)
Mailing Address: _____
Phone Number: _____

For Stored Water Releases (if applicable):

Name of Reservoir: _____
Reservoir Permit/Certificate: _____ Contract Number(s): _____

The above described mitigation credits have been transferred from _____, mitigation credit holder, to _____, ground water application/permit/certificate holder.

[Signature]
Mitigation Bank Signature

3/14/2012
Date

[Signature]
Ground Water Application/Permit/Certificate Holder Signature

3/14/12
Date

Thornburgh Utility Group, LLC
2447 NW Canyon Drive
Redmond, OR 97756

March 12, 2012
Project No. 1130-101

Ms. Laura Wilke, Flow Restoration Program Coordinator
Oregon Water Resources Department
727 Summer Street NE, Suite A
Salem, Oregon 97301-1271

AGENT AUTHORIZATION; THORNBURGH UTILITY GROUP, LLC

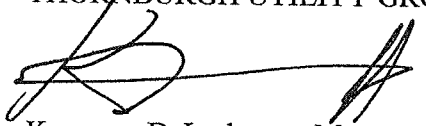
Dear Laura:

This letter authorizes David J. Newton of Newton Consultants, Inc. to act as Agent for Thornburgh Utility Group, LLC in connection with water rights matters.

Please contact me at 541-350-8479 if you have any questions regarding this authorization.

Sincerely,

THORNBURGH UTILITY GROUP, LLC



Kameron DeLashmutt, Manager

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