



Oregon

John A. Kitzhaber, MD, Governor

Water Resources Department

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WK & K LAND LTD
3122 SE STAHLBUSH ISLAND RD
CORVALLIS, OR 97333

September 21, 2012

Reference: File G-17560

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 an 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 appropriation of 350 gallons per minute of water, which is 0.78 cubic foot per second (CFS), from a well (BENT 761) in Willamette River Basin for year-round industrial/manufacturing uses.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Ground water will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights.

The Department has determined, based upon Oregon Administrative Rule (OAR) 690-009, that the proposed ground water use will have the potential for substantial interference with Willamette River. Therefore, in accordance with OAR 690-400-0010(11)(a)(B), surface water availability must also be considered. Surface water is available in the amount and for the full period requested.

4. The Department has determined, based upon OAR 690-009, that the well will produce ground water from an unconfined alluvium within a quarter mile of the banks of surface water and is presumed to be hydraulically connected to the surface water. Such hydraulically connected ground water is classified the same as the surface source under OAR 690-502-0240. The use of water from a well (BENT 761) in Willamette River Basin for industrial/manufacturing uses **is only allowed** September 1 through June 30 under OAR 690-502-0050(1)(c), the Willamette Basin Program.

Due to this seasonal limitation, and the original request to use water year-round, it appears unlikely that a permit will be issued. However, if you can make beneficial use of the water during the period it is allowed, September 1 through June 30, you may want to consider amending the season to September 1 through June 30. Please be aware that

amending the season to September 1 through June 30 is not a guarantee that the application will approved.

5. The application is subject to Section 4(d) of the Endangered Species Act.

Summary of Allowable Water Use

Because not all items above are favorable, the use of 0.78 CFS of water from a well (BENT 761) in Willamette River Basin for year-round industrial/manufacturing uses is not allowable, and it appears unlikely that you will be issued a permit unless a suitable mitigation proposal is provided or the season is amended prior to issuance of the Proposed Final Order. At this time, you must decide whether to proceed or to withdraw your application as described below.

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, October 5, 2012**. 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 diverted 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. To monitor the effect of water use from the well(s) authorized under this permit, the Department requires the water user to obtain, from a qualified individual (see below), and report annual static water level measurements. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

Measurements must be made according to the following schedule:

Before Use of Water Takes Place

Initial and Annual Measurements

The Department requires the permittee to report an initial water level measurement in the month specified above once well construction is complete and annually thereafter until use of water begins; and

After Use of Water has Begun

Seven Consecutive Annual Measurements

Following the first year of water use, the user shall report seven consecutive annual static water level measurements. The first of these seven annual measurements will establish the reference level against which future annual measurements will be compared. Based on an analysis of the data collected, the Director may require the user to obtain and report additional annual static water level measurements beyond the seven year minimum reporting period. The additional measurements may be required in a different month. If the measurement requirement is stopped, the Director may restart it at any time.

All measurements shall be made by a certified water rights examiner, registered professional geologist, registered professional engineer, licensed well constructor or pump installer licensed by the Construction Contractors Board and be submitted to the Department on forms provided by the Department. The Department requires the individual performing the measurement to:

- A. Identify each well with its associated measurement; and
- B. Measure and report water levels to the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method used to obtain each well measurement; and
- D. Certify the accuracy of all measurements and calculations reported to the Department.

The water user shall discontinue use of, or reduce the rate or volume of withdrawal from, the well(s) if any of the following events occur:

- A. Annual water level measurements reveal an average water level decline of three or more feet per year for five consecutive years; or
- B. Annual water level measurements reveal a water level decline of 15 or more feet in fewer than five consecutive years; or
- C. Annual water level measurements reveal a water level decline of 25 or more feet; or
- D. Hydraulic interference leads to a decline of 25 or more feet in any neighboring well with senior priority.

The period of non-use or restricted use shall continue until the water level rises above the decline level which triggered the action or until the Department determines, based on the permittee's and/or the Department's data and analysis, that no action is necessary because the aquifer in question can sustain the observed declines without adversely impacting the resource or senior water rights. The water user shall in no instance allow excessive decline, as defined in Commission rules, to occur within the aquifer as a result of use under this permit. If more than one well is involved, the water user may submit an alternative measurement and reporting plan for review and approval by the Department.

3. 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 503-986-0859 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

G-17560
WAB 2-30200321
POU 2-30200321
GW

APPLICATION FACT SHEET

Application File Number: G-17560

Applicant: WK & K LAND LTD

County: Bent

Watermaster: 2

Priority Date: June 6, 2012

Source: A WELL (BENT 761) IN WILLAMETTE RIVER BASIN

Use: INDUSTRIAL/MANUFACTURING USES

Quantity: 0.78 CUBIC FOOT PER SECOND

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 26 WILLAMETTE R & TRIBS

Point of Diversion or Well Location(s): SESW, SECTION 12, T12S, R5W, W.M.;1400 FEET EAST FROM SW CORNER, SECTION 12

Place of Use:

SE $\frac{1}{4}$ SW $\frac{1}{4}$
SECTION 12

NE $\frac{1}{4}$ NW $\frac{1}{4}$
SECTION 13

TOWNSHIP 12 SOUTH, RANGE 5 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, October 5, 2012

PUBLIC NOTICE DATE: Tuesday, September 25, 2012

30 DAY COMMENT DEADLINE DATE: Thursday, October 25, 2012

Mailing List for IR Copies

Application #G-17560

IR Date: September 21, 2012

Original mailed to applicant VIA EMAIL:

WK & K LAND LTD, 3122 SE STAHLBUSH ISLAND RD, CORVALLIS, OR 97333

SENT VIA EMAIL:

1. Applicant - billc@stahlbush.com
2. agent - tina@stahlbush.com
3. WM #2
4. ODFW
5. DEQ

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

Copies sent to:

1. WRD - File # G-17560
2. WRD - Water Availability: Ken Stahr

IR, Map, and Fact Sheet Copies sent to:

1. Department of Agriculture
2. Kim Kratz, Director, Oregon State Habitat Office, National Marine Fisheries Service
1201 NE Lloyd Blvd, Portland, OR 97232
3. Paul Henson, State Supervisor, USFWS
Oregon Fish & Wildlife Office, 2600 S.E. 98th Ave, Ste 100, Portland, OR 97266

Caseworker: Jeana Eastman

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