



# 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

**CERTIFIED MAIL**  
**Return Receipt Requested**

RAY KLUPENGER  
RDO FARMS  
24075 KLUPENGER RD NE  
AURORA OR 97002

June 7, 2013

Reference: File G-17622

Dear Mr. Kuplenger:

**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 0.947 cubic foot per second (CFS) from Well 1 in Willamette River Basin for year-round nursery use on 51.1 acres.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. Uses included in nursery use are fully included in irrigation and agriculture uses, both of which are allowed by OAR 690-502, the Willamette Basin Program. Therefore, the appropriation of water from Well 1 in Willamette River Basin for nursery use is allowable.
4. 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 OAR 690-009, that the proposed ground water use will not have the potential for substantial interference with any surface water source.

5. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

**Summary of Initial Determinations**

**The appropriation of 0.947 CFS from Well 1 in Willamette River Basin for nursery use on 51.1 acres is allowable during the full period requested, year-round.**

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 will be required prior to issuance of any Proposed Final Order that may recommend approval:

- Department staff found a discrepancy regarding the location of Well 1. The coordinates listed for Well 1 on the application map, being 400 feet north and 330 east from the NW corner of SWNW, Section 34, T3S, R1W, W.M., would place the well in the NWNW whereas the location depicted on the map shows Well 1 in the NENW. Please submit a revised map showing the correct location and/or coordinates of Well 1.

**Please submit this information no later than Thursday, July 11, 2013.** 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 the appropriation of water from this well.

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, June 21, 2013**. 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. 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. **Dedicated Measuring Tube:** Wells with pumps shall be equipped with an unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200.
- 4. 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.
- 5. The amount of water used for nursery use under this right, together with the amount secured under any other right existing for the same lands, is limited to 0.15 cubic foot per second per acre and 5.0 acre feet per acre per year. For irrigation of containerized nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-fortieth of one cubic foot per second and 5.0 acre feet per acre per year. For irrigation of in-ground nursery plants, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of one cubic foot per second and 2.5 acre feet per acre per year. The use of water for nursery use may be made at any time, during the period of allowed use specified above, that the use is beneficial. For irrigation of any other crop, the amount of water diverted under this right, together with the amount secured under any other right existing for the same lands, is limited to one-eightieth of one cubic foot per second and 2.5 acre feet per acre during the irrigation season of each year.

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 503-986-0816 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-17622  
WAB - no psi  
POU - no psi  
GW

# APPLICATION FACT SHEET

Application File Number: G-17622

Applicant: RAY KLUPENGER; RDO FARMS

County: MARION

Watermaster: 16

Priority Date: January 25, 2013

Source: WELL 1 IN WILLAMETTE RIVER BASIN

Use: NURSERY USE ON 51.1 ACRES

Quantity: 0.947 CUBIC FOOT PER SECOND

Basin Name & Number: WILLAMETTE, #2

Stream Index Reference: Volume 25 WILLAMETTE R N 1/2 MISC W

Well Location: WELL 1 - NWNW, SECTION 34, T3S, R1W, W.M.; 400 FEET NORTH AND 330 FEET EAST FROM NW CORNER, SWNW, SECTION 34

Place of Use:

NE  $\frac{1}{4}$  NW  $\frac{1}{4}$  17.5 ACRES  
NW  $\frac{1}{4}$  NW  $\frac{1}{4}$  33.6 ACRES  
SECTION 34  
TOWNSHIP 3 SOUTH, RANGE 1 WEST, W.M.

**14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 21, 2013**

**PUBLIC NOTICE DATE: Tuesday, June 11, 2013**

**30 DAY COMMENT DEADLINE DATE: Thursday, July 11, 2013**

# Mailing List for IR Copies

Application #G-17622

IR Date: June 7, 2013

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**Original mailed to applicant:**

RAY KLUPENGER RDO FARMS  
24075 KLUPENGER RD NE  
AURORA OR

Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)
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**SENT VIA EMAIL:**

1. WRD - WM #16

Copies sent to:

WRD - File # G-17622

WRD - Water Availability: Shawn Turner

Caseworker: Kerry Kavanagh

COPYSHT.IR

## APPLICATION PROCESS DESCRIPTION FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

In order to take and use the waters of Oregon, a citizen must first obtain a permit from the Water Resources Department. The water must be used for beneficial purpose - without waste. To become well-informed about water right topics, weekly public notice, forms and fees please visit our web site at [www.wrd.state.or.us](http://www.wrd.state.or.us)

### 1. *Pre-application considerations*

- follow instructions in the application packet
- if you have questions about completing an application or would like to arrange a pre-application conference contact the Department's Water Rights Information Group (WRIG) at 503-986-0801

### 2. *Application filing*

- application with fee is received by the Department
- Department determines completeness of application
- if use is not allowed by statute (ORS 538), the application and fees are returned to the applicant
- incomplete application and fees are returned to the applicant
- only a complete application receives a tentative priority date, is assigned a caseworker, and moves forward for processing

### 3. *Initial Review (IR)*

- caseworker reviews application by considering basin plans, water availability, statutory restrictions and all other appropriate factors
- caseworker sends IR report to applicant
- contact the caseworker if you have questions about the IR
- seven days after date of the IR, it is included in Department's weekly Public Notice
- public comments must be submitted within 30 days after the Public Notice
- **administrative hold** may be requested in writing by applicant

### 4. *Proposed Final Order (PFO)*

- caseworker evaluates application against required criteria and develops draft permit, if appropriate
- PFO includes instructions for filing of protests
- caseworker considers public comments and mails PFO to applicant
- the PFO is included in Department's weekly Public Notice
- public protests to the PFO must be submitted within 45 days after the Public Notice

**Stop Processing deadline is within 14 days of Initial Review - use the form below**

- applicant may request no further action and fee refund of all but \$200

### STOP PROCESSING REQUEST FOR GROUNDWATER, SURFACE WATER AND REGULAR RESERVOIR APPLICATIONS

Applicant notification to withdraw Water Right Application # \_\_\_\_\_

After reviewing the Initial Review for my application, I request that processing be stopped and the fees be refunded (minus a \$200 examination fee.) I understand that without a valid permit I may not legally use the water as requested in my application

Signature \_\_\_\_\_ date \_\_\_\_\_

Signature \_\_\_\_\_ date \_\_\_\_\_

*Under ORS 537.150 (5) and 537.620 (5) timely submission of this request authorizes that the water right application process be stopped and all filing fees (except \$200 examination fee) be returned.*

This notice must be received at Water Resources Department by \_\_\_\_\_

Return the notice to: OWRD, Water Rights Division  
STOP PROCESSING  
725 Summer Street, NE - Suite A  
Salem OR 97301-1271



## 5. *Final Order (FO)*

- if no protest is filed, Final Order is issued

### *The protest process*

If one or more protests are filed, permit process consists of:

- settlement discussion
- contested case hearing
- proposed order
- period of time to file exceptions
- possible hearing by Water Resources Commission
- final order issued

### *Permit holder responsibilities*

- comply with all water use conditions of the permit
- advise Department of address change or assignment to new permit holder
- if need arises, request extension of time or authorize cancellation of permit
- submit timely claim of beneficial use (COBU) to Department
- most permits require COBU to be prepared by a Certified Water Right Examiner
- permits may be canceled by the permit holder or by the Department for failure to comply with or one or more permit conditions