



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

August 15, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

LAKE CREEK LODGE
GORDON C JONES
13375 SW FOREST SERVICE RD
CAMP SHERMAN OR 97730

Reference: File G-17871

INITIAL REVIEW

THIS IS NOT A PERMIT AND IS SUBJECT TO CHANGE DURING PROCESSING

Dear Applicant:

This letter is to inform you that processing of your water-use permit application has begun, 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 if the proposed use is to be allowed. Based on the information you supplied, the Department has made the following initial determinations:

1. The application proposed the appropriation of 0.16 cubic foot per second (CFS) of ground water for year-round commercial use (at a volume of 21.2 acre-feet (AF) per year), irrigation of 6.6 acres from April 1 through October 31, year-round pond maintenance, and year-round storage of 2.0 AF of ground water in a pond with a surface area of 0.72 acre from Well 1 (JEFF 620/L59950), Well 2 (JEFF 50790/L59949) and Well 3 (JEFF 51052/L96130) in South Fork Lake Creek Basin.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of groundwater for irrigation, commercial use, pond maintenance and storage is allowable under the Deschutes Basin Program.
4. If properly conditioned, the proposed use of ground water will avoid injury to existing ground water rights and the resource.
5. The Department has determined, based upon OAR 690-09, that the proposed ground water sources are hydraulically connected to Metolius River, and will have the potential for substantial interference with surface water. Therefore, in accordance with OAR 690-410-0070(1) and 690-400-0010(11)(a), surface water availability and public-interest considerations related to the surface-water source must be considered.
6. Surface water is not available at any time of the year due to senior water rights on Metolius River and downstream waters.

7. The proposed use of hydraulically-connected ground water with the potential for substantial interference is not allowable in the Deschutes Basin from April 15 through September 30 of each year (OAR 690-33-120(2)(b)).
8. The mainstem Metolius River is a State Scenic Waterway. The proposed use will measurably reduce scenic waterway flows as defined in ORS 390.835.
9. Because the proposed wells, located in the Deschutes Ground Water Study Area, have the potential for substantial interference and will interfere with scenic waterway flows, by law, the Department is required to deny your application unless you provide mitigation. The unfavorable findings of this Initial Review may be overcome if you provide mitigation pursuant to the Deschutes Ground Water Mitigation Rules (OAR 690-505-0500 through 0630). Those rules provide a process under which applicants may mitigate for the impact their proposed use would have on surface water flows.
10. The Department has determined your mitigation obligation is 17.0 AF annually. The mitigation obligation is calculated based on a consumptive-use factor of 1.8 AF per acre for irrigation, a 15% consumptive-use factor for commercial use, and 2.67 AF per acre of evaporation loss for pond maintenance and storage.
11. The Department has determined that mitigation for the proposed use must be located in the Metolius River Zone of Impact.
12. Please refer to the **Additional Information Required** section below for specific information regarding deficiencies with the application.

Summary of Initial Review

The appropriation of 0.16 CUBIC FOOT PER SECOND of ground water, being 0.16 CFS for year-round commercial use (at a volume of 21.2 AF per year), and no more than 0.08 CFS for irrigation of 6.6 acres from April 1 through October 31, and 0.02 CFS for year-round pond maintenance, and year-round storage of 2.0 AF from Well 1 (JEFF 620/L59950), Well 2 (JEFF 50790/L59949) and Well 3 (JEFF 51052/L96130) in South Fork Lake Creek Basin for is not allowable. However, if you provide sufficient mitigation water to offset the proposed use, it may be allowed under OAR 690-505-0610.

Additional Information Required:

Although it is unlikely that a permit will be issued, if the Department's findings change, additional information will be required prior to issuance of any Proposed Final Order that may recommend permit approval.

Please provide a map that shows the location of the center of the pond 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).

Please submit this information no later than Friday, September 19, 2014. 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.

Mitigation Obligation Options:

To satisfy your mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 17.0 AF of qualifying mitigation credits from an individual or mitigation bank. If you are interested in obtaining mitigation credits, you may want to contact me for a list of mitigation credit holders.

If you decide to purchase mitigation credits, you must submit a documentary evidence form demonstrating that you have obtained 17.0 AF of mitigation credits. The mitigation bank or the individual you have obtained credits from should provide you with a completed form. Blank forms may be obtained from the Department at the address above, or from the Bend Regional office.

If you are proposing to implement a mitigation project, you must identify and describe the project in sufficient detail so that the Department can make a preliminary determination as to whether the proposed project will likely meet your mitigation obligation. Please contact Laura Wilke (503.986.0884) for further information on mitigation projects, forms, and specific requirements to be included in your proposal.

Mitigation credits must be obtained and/or a mitigation project must be completed before a permit can be issued.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, August 29, 2014**. 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 do anything at this time. 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:

Measurement devices, and recording/reporting of annual water use conditions:

- A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter at each point of appropriation. The permittee shall maintain the device in good working order.
- B. The permittee shall allow the watermaster access to the device; provided however, where any device is located within a private structure, the watermaster shall request access upon reasonable notice.
- C. The permittee shall keep a complete record of the volume of water diverted each month, and shall submit a report which includes 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.

- D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.

Ground Water Mitigation Conditions

1. Mitigation Obligation: 17.0 acre-feet of mitigation water in the Metolius River Zone of Impact (located anywhere in the Metolius River Basin above river mile 28).
2. Mitigation Source: obtain 17.0 acre-feet of mitigation water or equivalent mitigation credits that meet the requirements of OAR 690-505-0610(2)-(5).
3. Mitigation water must be legally protected instream in the Metolius River Zone of Impact for the life of the permit and subsequent certificate(s). Regulation of the use and/or cancellation of the permit, or subsequent certificate(s) will occur if the required mitigation is not maintained.
4. The permittee shall provide additional mitigation if the Department determines that average annual consumptive use of the subject appropriation has increased beyond the originally mitigated amount.
5. If mitigation is from a secondary right for stored water from a storage project not owned or operated by the permittee, the use of water under this right is subject to the maintenance and terms and conditions of a valid contract or satisfactory replacement, with the owner/operator of the storage project, a copy of which must be on file in the records of the Water Resources Department.
6. Failure to comply with these mitigation conditions shall result in the Department regulating the ground water permit, or subsequent certificate(s), proposing to deny any permit extension application for the ground water permit, and proposing to cancel the ground water permit, or subsequent certificate(s).

Scenic Waterway Condition

Use of water under authority of this permit may be regulated if analysis of data available after the permit is issued discloses that the appropriation will measurably reduce the surface water flows necessary to maintain the free-flowing character of a scenic waterway in quantities necessary for recreation, fish and wildlife in effect as of the priority date of the right, or as those quantities may be reduced subsequently. However, the use of ground water allowed under the terms of this permit will not be subject to regulation for Scenic Waterway flows, provided the required mitigation is maintained.

If you have questions:

This Initial Review was produced by Kim French-Gorski. If you have any questions about any of the information contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0816 or Kim.R.French-Gorski@wrdd.state.or.us. Please have your application number available if you call. If you have other questions about the Department or any of its programs please contact our Customer Service Group at 503-986-0801. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 725 Summer St NE, Suite A, Salem OR 97301-1266, Fax: 503-986-0901.

Sincerely,



Kim French-Gorski
Water Rights Application Caseworker

enclosures: Stop Processing Request Form; Response to Notice of Mitigation Obligation; and
Deschutes Mitigation Rules

G-17871
WAB 5-70698
POU 5-70698
GW

Application Fact Sheet

Mail to: Applicant, Watermaster, District Biologist (ODFW)

Application Number: G-17871

Applicant: LAKE CREEK LODGE, GORDON C. JONES, 13375 SW FOREST SERVICE RD, CAMP SHERMAN OR 97730

County: JEFFERSON

Watermaster: DISTRICT 11, JEREMY T. GIFFIN

Priority Date: JUNE 4, 2014

Source: WELL 1 (JEFF 620/L59950), WELL 2 (JEFF 50790/L59949) AND WELL 3 (JEFF 51052/L96130) IN SOUTH FORK LAKE CREEK BASIN

Use: IRRIGATION OF 6.6 ACRES, COMMERCIAL USE, POND MAINTENANCE, STORAGE

Quantity: 0.16 CUBIC FOOT PER SECOND AND 2.0 ACRE FEET OF STORED GROUNDWATER

Basin Name & Number: DESCHUTES, #5

Points of Appropriation:

	Twp	Rng	Mer	Sec	Q-Q	Measured Distances
WELL 1 (JEFF 620/ L59950)	13 S	9 E	WM	15	SW NW	1128 FEET NORTH AND 94 FEET EAST FROM W1/4 CORNER, SECTION 15
WELL 2 (JEFF 50790/ L59949)	13 S	9 E	WM	15	SW NW	929 FEET NORTH AND 212 FEET EAST FROM W1/4 CORNER, SECTION 15
WELL 3 (JEFF 51052/ L96130)	13 S	9 E	WM	15	SW NW	405 FEET NORTH AND 674 FEET EAST FROM W1/4 CORNER, SECTION 15

Place of Use:

IRRIGATION					
Twp	Rng	Mer	Sec	Q-Q	Acres
13 S	9 E	WM	15	NW NW	0.60
13 S	9 E	WM	15	SW NW	6.00

COMMERCIAL USES				
Twp	Rng	Mer	Sec	Q-Q
13 S	9 E	WM	15	NW NW
13 S	9 E	WM	15	SW NW

STORAGE AND POND MAINTENANCE				
Twp	Rng	Mer	Sec	Q-Q
13 S	9 E	WM	15	NW NW

STORAGE AND POND MAINTENANCE				
Twp	Rng	Mer	Sec	Q-Q
13 S	9 E	WM	15	SW NW

Public Notice Date: Tuesday, August 19, 2014

14-day Stop Processing Deadline: Friday, August 29, 2014

End of 30-day Comment Period: Friday, September 19, 2014

Mailing List for IR Copies

Application: G-17871

IR Date: August 15, 2014

Original mailed to:

Applicant: LAKE CREEK LODGE
GORDON C. JONES
13375 SW FOREST SERVICE RD
CAMP SHERMAN OR 97730

Copies Mailed	
by: _____	(STAFF)
on: _____	(DATE)

Copies sent to:

1. WRD - File G-17871
2. WRD - Water Availability: Shawn Turner
3. WRD - Laura Wilke
4. DRC – Genevieve Hubert

IR, Map, and Fact Sheet Copies sent to:

(NOTE: please send only one copy per office, even if there is more than one name on the list)

1. Watermaster District 11
2. ODFW District Biologists: Brett Hodgson and Amy Stuart
3. ODFW: Rick Kepler
4. Columbia River Intertribal Fish Commission:
5. US Fish & Wildlife: Nancy Gilbert, 63095 Deschutes Market Rd, Bend OR 97701-9794
6. NW Power Planning Council
7. DEQ: Eric Nigg & Bonnie Lamb, Eastern Region
8. DOA: Salem: Jim Johnson & Paul Measeles
9. DSL: Shawn Zumwalt
10. Confederated Tribes of the Umatilla Indian Reservation: Jennifer Hudson and Carl Merkle

Copies sent to Other Interested Persons *(CWRE, Agent, Well Driller, Commenter, etc.):*

11. Adam Sussman, GSI Water Solutions, 1600 SW Western Blvd, Suite 240, Corvallis, OR 97333

Caseworker: Kim French-Gorski

**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): Lake Creek Lodge, Gordon C Jones

Applicant's agent (*if applicable*): Adam Sussman, GSI Water Solutions

Application number: G-17871

Proposed Use: IRRIGATION OF 6.6 ACRES, COMMERCIAL USE, POND MAINTENANCE, STORAGE

Period of Use: April 1 through October 31 for irrigation; year-round for commercial use, pond maintenance and storage

Rate requested: 0.16 cubic feet per second (CFS), and 2.0 acre feet (AF) for storage

Volume requested: 42.0 AF, being 19.8 AF for irrigation, 21.2 AF for commercial use, and 1.0 AF for pond maintenance

Mitigation Obligation: 17.0 acre-feet, being 11.9 AF for irrigation, 3.2 AF for commercial use and 1.9 AF for pond maintenance

Zone of Impact: Metolius River Zone of Impact

Please read and initial the following statements:

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

_____ 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:

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

Date_____

Telephone Number:_____

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