



Oregon
Kate Brown, Governor

Water Resources Department
725 Summer St NE, Suite A
Salem, OR 97301
(503) 986-0900
Fax (503) 986-0904

May 6, 2016

PUEBLO MOUNTAIN LAND CO. LLC
707 E 600 N
RUPERT, ID 83350

Reference: File G-18169

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 the water-use permit application and to describe the 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 supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the appropriation of 7.20 cubic feet per second (CFS) of water from Well DW1 in Trout Creek Basin, and Well DW2, Well DW3 (HARN 1793), and Well DW4 in Willow Creek Basin for primary irrigation of 77.8 acres, supplemental irrigation of 293.2 acres, and deficiency-in-rate increase on 242.9 acres March 15 through October 15 of each year.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The appropriation of water from Well DW1 in Trout Creek Basin, and Well DW2, Well DW3 (HARN 1793), and Well DW4 in Willow Creek Basin for irrigation is allowable under the Malheur Lake Basin Program (OAR 690-510).
4. Groundwater will likely be available within the capacity of the resource, and if properly conditioned, the proposed use of groundwater will avoid injury to existing groundwater rights.

The Department has determined, based upon OAR 690-009, that the proposed groundwater use will not have the potential for substantial interference with any surface water source.

5. The application requested 10 years from the date of permit issuance to complete construction and completely apply the water to full beneficial use. Oregon Revised Statute limits the time line to no more than five years after the permit is issued. If a permit is issued, it will limit the time line to no more than five years.

Please note that if a permit is issued and construction is not complete and/or full beneficial use has not been made within the five years prescribed by the permit, the permit holder may submit an application to the Department for an extension of time, which may be approved based upon the merit of the application.

6. The application proposed a water use limit and duty that are higher than the general basin-wide standards and submitted information that demonstrates the need for the higher limit and duty. Oregon Revised Statute 537.621(4) allows the Department to authorize the requested limit and duty except upon specific findings related to the application to support a determination that a lesser amount is needed. The Department has determined there is a need for the higher limit, being 1/60th CFS/acre; however, the Department has determined that the duty shall remain at 3.0 acre feet (AF)/acre/year.

The deficiency-in-rate increase shall be from 1/80th CFS per acre to 1/60th CFS per acre and the duty remain at 3.0 AF/acre/year.

7. Supplemental irrigation shall match the irrigation season of the underlying right, being March 15 through October 1 of each year, per the Trout Creek Decree.
8. The application requested primary irrigation of 18.0 acres in NE SW Section 9, where existing primary irrigation right, Certificate 91126 exists. The Department understands the applicant intends to transfer Certificate 91126.
9. Upon reviewing this application, the Department determined that there may be acreage conflicts where portions of the proposed place of use for primary and supplemental irrigation may not be allowed, however, Transfer T-12255 associated with portions of the acreage proposed under this application is still in process. Therefore, the Department will wait for any outstanding transfers to be completed before determining the acreage that may be allowed for primary and supplemental irrigation under this application.

Summary of Initial Determinations

The appropriation of 7.20 CFS of water from Well DW1 in Trout Creek Basin, and Well DW2, Well DW3 (HARN 1793), and Well DW4 in Willow Creek Basin for primary irrigation of 77.8 acres and supplemental irrigation of 293.2 acres, may be allowable March 15 through October 1 of each year, contingent upon approval of underlying water rights.

The deficiency-in-rate increase on 242.9 acres is allowable in matching the underlying irrigation season, March 15 through October 1 of each year.

Because of these favorable determinations, the Department can now move the application to the next phase of the water-rights application review process, where public interest factors will be evaluated.

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 the Application:

If you choose to proceed with the application, you do not have to notify the Department. The 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 the application and receive a refund (minus a \$225 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, May 20, 2016**. 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 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.

2. Static Water Level Conditions

The Department requires the water user to obtain, from a qualified individual (see below), and report annual static water levels for each well on the permit. The static water level shall be measured in the month of March. Reports shall be submitted to the Department within 30 days of measurement.

The permittee shall report an initial March static water-level measurement once well construction is complete and annual measurements thereafter. Annual measurements are required whether or not the well is used. The first annual measurement will establish a reference level against which future measurements will be compared. However, the Director may establish the reference level based on an analysis of other water-level data. The Director may require the user to obtain and report additional water levels each year if more data are needed to evaluate the aquifer system.

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. Measurements shall be submitted on forms provided by, or specified by, the Department. Measurements shall be made with equipment that is accurate to at least the standards specified in OAR 690-217-0045. The Department requires the individual performing the measurement to:

- A. Associate each measurement with an owner's well name or number and a Department well log ID; and
- B. Report water levels to at least the nearest tenth of a foot as depth-to-water below ground surface; and
- C. Specify the method of measurement; and

- D. Certify the accuracy of all measurements and calculations reported to the Department.

The Department may require the discontinuance of groundwater use, 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 restricted use shall continue until the water level rises above the decline level which triggered the action or 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 causing substantial interference with senior water rights. The water user shall not 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 Condition

Wells with pumps shall be equipped with a minimum 3/4-inch diameter, unobstructed, dedicated measuring tube pursuant to figure 200-5 in OAR 690-200. If a pump has been installed prior to the issuance of this permit, and if static water levels and pumping levels can be measured using an electrical tape, then the installation of the measuring tube can be delayed until such time that water levels cannot be measured or the pump is repaired or replaced.

4. Observation Well Condition

The permittee shall construct one (1) minimum six-inch diameter observation well to penetrate the same aquifer as the production wells. The well shall meet the Department's minimum well construction standards and shall be cased and sealed to the same depth as the production wells. The well shall be constructed at a location approved by the Department for the purpose of instrumentation with continuous water-level monitoring equipment. The landowner or permittee shall provide access to Department staff to install and maintain the monitoring equipment. The well shall not be used for any other purpose while the Department is monitoring water levels. The well shall be completed prior to water use under the terms of any permit issued.

5. Well Identification Tag Condition

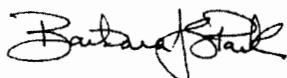
Prior to using water from any well listed on this permit, the permittee shall ensure that the well has been assigned an WORD Well Identification Number (Well ID tag), which shall be permanently attached to the well. The Well ID shall be used as a reference in any correspondence regarding the well, including any reports of water use, water level, or pump test data.

The water source identified in the 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/programs/NaturalResources/Pages/AgWaterQuality.aspx> to learn more about the plans and how they may affect the proposed water use.

If you have any questions:

Feel free to contact me at Barbara.J.Park@wrdd.state.or.us 503-986-0859 if you have any questions regarding the contents of this letter or the application. Please have the 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: Barbara Park, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Park".

Barbara Park
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

G-18169
WAB 12-no PSI
POU 12-no PSI
GW

APPLICATION FACT SHEET

Application File Number: G-18169

Applicant: PUEBLO MOUNTAIN LAND CO. LLC

County: Harney

Watermaster: 10

Priority Date: December 7, 2015

Source: WELL DW1 IN TROUT CREEK BASIN; WELL DW2, WELL DW3 (HARN 1793), AND WELL DW4 IN WILLOW CREEK BASIN

Use: PRIMARY IRRIGATION OF 77.8 ACRES; SUPPLEMENTAL IRRIGATION OF 293.2 ACRES; AND DEFICIENCY-IN-RATE INCREASED IRRIGATION ON 242.9 ACRES

Quantity: 7.20 CUBIC FEET PER SECOND

Basin Name & Number: Malheur Lake, #12

Stream Index Reference: Volume 1A TROUT CR MISC

Well Location(s):

WELL DW1: NENW SECTION 4, T39S, R35E, W.M.; 385 FEET SOUTH AND 1670 FEET EAST FROM NW CORNER, SECTION 4

WELL DW2: NESW SECTION 4, T39S, R35E, W.M.; 2455 FEET NORTH AND 1710 FEET EAST FROM SW CORNER, SECTION 4

WELL DW3: SWSW SECTION 4, T39S, R35E, W.M.; 50 FEET NORTH AND 490 FEET EAST FROM SW CORNER, SECTION 4

WELL DW4: NWSE SECTION 9, T39S, R35E, W.M.; 2510 FEET NORTH AND 2630 FEET EAST FROM SW CORNER, SECTION 9

Place of Use:

<u>QQ</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>	<u>TO MAKE UP A DEFICIENCY IN RATE</u>
NE $\frac{1}{4}$ SW $\frac{1}{4}$		28.5 ACRES	
SE $\frac{1}{4}$ SW $\frac{1}{4}$		34.9 ACRES	
NE $\frac{1}{4}$ SE $\frac{1}{4}$		2.9 ACRES	
NW $\frac{1}{4}$ SE $\frac{1}{4}$		34.6 ACRES	
SW $\frac{1}{4}$ SE $\frac{1}{4}$		39.0 ACRES	
SE $\frac{1}{4}$ SE $\frac{1}{4}$		4.7 ACRES	

SECTION 33

TOWNSHIP 38 SOUTH, RANGE 35 EAST, W.M.

<u>QQ</u>	<u>PRIMARY</u>	<u>SUPPLEMENTAL</u>	<u>TO MAKE UP A DEFICIENCY IN RATE</u>
NE ¹ / ₄ NE ¹ / ₄		1.1 ACRES	
NW ¹ / ₄ NE ¹ / ₄		30.4 ACRES	
SW ¹ / ₄ NE ¹ / ₄		39.7 ACRES	
SE ¹ / ₄ NE ¹ / ₄		5.0 ACRES	
NE ¹ / ₄ NW ¹ / ₄		21.6 ACRES	
SW ¹ / ₄ NW ¹ / ₄	31.3 ACRES		
SE ¹ / ₄ NW ¹ / ₄	2.4 ACRES	35.2 ACRES	
NE ¹ / ₄ SW ¹ / ₄	1.2 ACRES	6.1 ACRES	6.6 ACRES
NW ¹ / ₄ SW ¹ / ₄	24.9 ACRES	0.2 ACRE	6.8 ACRES
SW ¹ / ₄ SW ¹ / ₄			38.6 ACRES
SE ¹ / ₄ SW ¹ / ₄			24.7 ACRES
NW ¹ / ₄ SE ¹ / ₄		9.3 ACRES	2.4 ACRES
SW ¹ / ₄ SE ¹ / ₄			6.8 ACRES
SECTION 4			
NE ¹ / ₄ NW ¹ / ₄			25.4 ACRES
NW ¹ / ₄ NW ¹ / ₄			17.9 ACRES
SW ¹ / ₄ NW ¹ / ₄			33.4 ACRES
SE ¹ / ₄ NW ¹ / ₄			36.0 ACRES
NE ¹ / ₄ SW ¹ / ₄	18.0 ACRES		15.2 ACRES
NW ¹ / ₄ SW ¹ / ₄			29.1 ACRES

SECTION 9

TOWNSHIP 39 SOUTH, RANGE 35 EAST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, May 20, 2016

PUBLIC NOTICE DATE: Tuesday, May 10, 2016

30 DAY COMMENT DEADLINE DATE: Thursday, June 9, 2016

Mailing List for IR Copies

Application #G-18169

IR Date: May 6, 2016

Original and map mailed to applicant:

PUEBLO MOUNTAIN LAND CO. LLC
ATTN: DUANE GRANT
707 E 600 N, RUPERT, ID 83350

SENT VIA EMAIL:

1. WRD - Watermaster # 10
2. Agent - NRORICK@YAHOO.COM

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

IR, Map, and Fact Sheet Copies sent to:

- 1 WRD - File # G-18169
2. Department of Agriculture

Affected Landowners (include "Notice of Initial Review--Affected Landowner")

1. Harney Electric Co-Op, 277 Lottery Lane, Hines, OR 97738

Caseworker: Barbara Park

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

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 \$225

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 \$225 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 \$225 examination fee) be returned.

This notice must be received at Water Resources Department by _____

Return the notice to: WORD, 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