

March 2, 2017

Martha O. Pagel

T: Salem 503-540-4260
mpagel@schwabe.com

BY HAND DELIVERY

Dwight French
Administrator, Water Rights & Adjudication
Division
Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem OR 97301-1271

RE: Limited License Application -- KC Development Group, LLC

Dear Dwight:

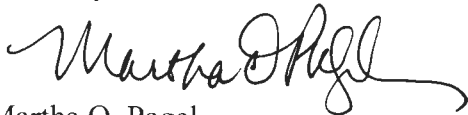
The enclosed application for a limited license is submitted for filing on behalf of our client, KC Development Group, LLC ("KCDG"). I will serve as the agent for the application. Please charge the application fee of \$280 to the Schwabe, Williamson & Wyatt account with the Department.

The application requests short-term authorization under a limited license as a bridge for the groundwater use requested under pending application G-18422.

By copy of this letter, I am confirming that a copy of the application and request for completion of the Water Availability form has been delivered via email to Kyle Gorman, Region Manger in the Bend Office, with a request that Mr. Gorman please return a copy of the completed form to me.

Thank you for your assistance.

Sincerely,



Martha O. Pagel

MOP:kdo
Enclosure

cc: Mr. Kyle Gorman (*via email w/encl.*) (*via email w/encl.*)
Kenneth Kataroff JD (*via email w/encl.*) (*via email w/encl.*)

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SALEM, OR

LL-1689



Oregon Water Resources Department
 725 Summer Street NE, Suite A
 Salem Oregon 97301-1271
 (503) 986-0900
 www.wrd.state.or.us

Application for Limited Water Use License

License No.: LL4689

Applicant(s): KC Development Group, LLC c/o Ken Katzaroff, General Counsel

Agent/Contact: Martha Pagel, Schwabe, Williamson & Wyatt, 530 Center St. NE, Suite 400, Salem, OR 97301; mpagel@schwabe.com; 503-540-4261

Mailing Address: 63560 Johnson Road

Bend Oregon 97703
 City State Zip

Telephone No.: 503-453-0873 email: ken@threeriversadvisors.com
 Home Cell Fax

I (We) make application for a Limited License to use or store the following described surface waters or groundwater – not otherwise exempt, or to use stored water of for a use of a short-term or fixed-duration:

- SOURCE(S) OF WATER:** Well DESC 59909 a tributary of Deschutes River
- AMOUNT OF WATER** to be diverted;
 Maximum instantaneous rate (cubic feet or gallons per minute): 50 gpm
 Total volume (gallons or acre-feet): 124.79 acre-feet. If water is to be used from more than one source, give the quantity from each: N/A
- INTENDED USE(S) OF WATER:** (check all that apply)
 - Road construction or maintenance
 - General construction
 - Forestland and rangeland management; or
 - Other: Short term aesthetic and fire protection uses with storage as a bridge pending approval of application G-18422
- DESCRIPTION OF PROPOSED PROJECT:** Include a description of the place of use as shown on the accompanying site map, the method of water diversion, the type of equipment to be used (including pump horsepower, if applicable), length and dimensions of supply ditches and pipelines:

See attached Description of Proposed Project.

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- PROJECT SCHEDULE:** (List day, month, and year)

Date water use will begin: Upon approval

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Date water use will be completed: March 2022* *5 years from approval or until approval of App. G-18422

Months of the year water would be diverted and used: See attached Description of Proposed Project.

If for other than irrigation from stored water, how and where will water be discharged after use:

No secondary use is planned, except for emergency fire protection

SIGNATURE of Applicant or Agent:

Date: 3/2/17

For WRD Use Only

PLEASE READ CAREFULLY

NOTE: A completed water availability statement from the local watermaster, Land Use Information Form completed by the local Planning Department, fees and site map meeting the requirements of OAR 690-340-030 must accompany this request. The fee for this request is **\$280** for the first point of diversion plus **\$30** for each additional point of diversion. Please review the Department's fee schedule to view fees required to request a limited license for Aquifer Storage and Recovery testing purposes or for Artificial Groundwater Recharge testing purposes.

Failure to provide any of the required information will result in return of your application. The license, if granted, will not be issued or replaced by a new license for a period of more than five consecutive years. The license, if granted, will be subordinate to all other authorized uses that rely upon the same source, or water affected by the source, and may be revoked at any time it is determined the use causes injury to any other water right or minimum perennial streamflow.

If water source is well, well logs or adequate information for the Department to determine aquifer, well depth, well seal and open interval, etc. are required. The licensee shall indicate the intended aquifer. If for multiple wells, each map location shall be clearly tied to a well log.

If a limited license is approved, the licensee shall give notice to the Department (Watermaster) at least 15 days in advance of using the water under the Limited License and shall maintain a record of use. The record of use shall include, but need not be limited to, an estimate of the amount of water used, the period of use and the categories of beneficial use to which the water is applied. During the period of the Limited License, the record of use shall be available for review by the Department upon request.

**A summary of review criteria and procedures that are generally applicable to these applications is available at: <http://www.oregon.gov/owrd/pages/pubs/forms.aspx>*

Mapping Requirements (OAR 690-340-0030):

- (1) A request for a limited license shall be submitted on a form provided by the Water Resources Department, and shall be accompanied by the following:
 - a. A site map of reproducible quality, drawn to a standard, even scale of not less than 2 inches = 1 mile, showing:
 - i. The locations of all proposed points of diversion referenced by coordinates or by bearing and distance to the nearest established or projected public land survey corner;
 - ii. The general course of the source for the proposed use, if applicable;
 - iii. Other topographical features such as roads, streams, railroads, etc., which may be helpful in locating the diversion points in the field.

REMARKS:

See attached Description of Proposed Project.

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66-1689

Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

NOTE TO APPLICANTS

In order for your application to be processed by the Water Resources Department (WRD), this Land Use Information Form must be completed by a local government planning official in the jurisdiction(s) where your water right will be used and developed. The planning official may choose to complete the form while you wait, or return the receipt stub to you. Applications received by WRD without the Land Use Form or the receipt stub will be returned to you. Please be aware that your application will not be approved without land use approval.

This form is NOT required if:

- 1) Water is to be diverted, conveyed, and/or used only on federal lands; **OR**
- 2) The application is for a water right transfer, allocation of conserved water, exchange, permit amendment, or ground water registration modification, and **all** of the following apply:
 - a) The existing and proposed water use is located entirely within lands zoned for exclusive farm-use or within an irrigation district;
 - b) The application involves a change in place of use only;
 - c) The change does not involve the placement or modification of structures, including but not limited to water diversion, impoundment, distribution facilities, water wells and well houses; **and**
 - d) The application involves irrigation water uses only.

NOTE TO LOCAL GOVERNMENTS

The person presenting the attached Land Use Information Form is applying for or modifying a water right. The Water Resources Department (WRD) requires its applicants to obtain land-use information to be sure the water rights do not result in land uses that are incompatible with your comprehensive plan. Please complete the form or detach the receipt stub and return it to the applicant for inclusion in their water right application. You will receive notice once the applicant formally submits his or her request to the WRD. The notice will give more information about WRD's water rights process and provide additional comment opportunities. You will have 30 days from the date of the notice to complete the land-use form and return it to the WRD. If no land-use information is received from you within that 30-day period, the WRD may presume the land use associated with the proposed water right is compatible with your comprehensive plan. Your attention to this request for information is greatly appreciated by the Water Resources Department. If you have any questions concerning this form, please contact the WRD's Customer Service Group at 503-986-0801.

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Land Use Information Form



Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, Oregon 97301-1266
(503) 986-0900
www.wrd.state.or.us

Applicant: KC Development Group LLC
First Last

Mailing Address: 63560 Johnson Rd

Bend OR 97703 Daytime Phone: 503 4530873
City State Zip

A. Land and Location

Please include the following information for all tax lots where water will be diverted (taken from its source), conveyed (transported), and/or used or developed. Applicants for municipal use, or irrigation uses within irrigation districts may substitute existing and proposed service-area boundaries for the tax-lot information requested below.

Township	Range	Section	¼ ¼	Tax Lot #	Plan Designation (e.g., Rural Residential/RR-5)	Water to be:			Proposed Land Use:
175	11E	13		828, 824, 820	RR-10	<input checked="" type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input checked="" type="checkbox"/> Used	See below
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	
						<input type="checkbox"/> Diverted	<input type="checkbox"/> Conveyed	<input type="checkbox"/> Used	

List all counties and cities where water is proposed to be diverted, conveyed, and/or used or developed:

Deschutes County

B. Description of Proposed Use

Type of application to be filed with the Water Resources Department

- Permit to Use or Store Water
- Water Right Transfer
- Permit Amendment or Ground Water Registration Modification
- Limited Water Use License
- Allocation of Conserved Water
- Exchange of Water

Source of water: Reservoir/Pond Ground Water Surface Water (name) _____

Estimated quantity of water needed: 124.79 cubic feet per second gallons per minute acre-feet

Intended use of water: Irrigation Commercial Industrial Domestic for _____ household(s)

Municipal Quasi-Municipal Instream Other See below

Briefly describe:

Limited license to provide temporary authorization while awaiting Department approval of Groundwater permit application G-18422, authorizing storage of water in two ponds for fire protection, aesthetic and pass through irrigation water.

Note to applicant: If the Land Use information Form cannot be completed while you wait, please have a local government representative sign the receipt at the bottom of the next page and include it with the application filed with the Water Resources Department.

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See bottom of Page 3. -->

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For Local Government Use Only

The following section must be completed by a planning official from each county and city listed unless the project will be located entirely within the city limits. In that case, only the city planning agency must complete this form. This deals only with the local land-use plan. Do not include approval for activities such as building or grading permits.

Please check the appropriate box below and provide the requested information

- Land uses to be served by the proposed water uses (including proposed construction) are allowed outright or are not regulated by your comprehensive plan. Cite applicable ordinance section(s): _____
- Land uses to be served by the proposed water uses (including proposed construction) involve discretionary land-use approvals as listed in the table below. (Please attach documentation of applicable land-use approvals which have already been obtained. Record of Action/land-use decision and accompanying findings are sufficient.) **If approvals have been obtained but all appeal periods have not ended, check "Being pursued."**

Type of Land-Use Approval needed (e.g., plan amendments, rezones, conditional-use permits, etc.)	Cite Most Significant Applicable Plan Policies & Ordinance Section References	Land-Use Approval:	
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
RECEIVED BY OWRD		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
MAR 02 2017		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued
SALEM, OR		<input type="checkbox"/> Obtained <input type="checkbox"/> Denied	<input type="checkbox"/> Being Pursued <input type="checkbox"/> Not Being Pursued

Local governments are invited to express special land-use concerns or make recommendations to the Water Resources Department regarding this proposed use of water below, or on a separate sheet.

The Deschutes County Zoning Code does not regulate the use of water to be stored in 2 ponds for aesthetic landscaping, emergency fire protection, or pass-through irrigation for the property owner

Name: Anthony Ragaine Title: Senior Planner
 Signature: Anthony Ragaine Phone: (541) 617-4739 Date: 2-7-17
 Government Entity: Deschutes County

Note to local government representative: Please complete this form or sign the receipt below and return it to the applicant. If you sign the receipt, you will have 30 days from the Water Resources Department's notice date to return the completed Land Use Information Form or WRD may presume the land use associated with the proposed use of water is compatible with local comprehensive plans.

Receipt for Request for Land Use Information

Applicant name: _____
 City or County: _____ Staff contact: _____
 Signature: _____ Phone: _____ Date: _____

This page to be completed by the local Watermaster.

WATER AVAILABILITY STATEMENT

Name of Applicant: KLDG Limited License Number: LL-1689

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights?

Yes No

If yes, please explain:

Groundwater

2. Based on your observations, would there be water available in the quantity and at the times needed to supply the use proposed by this application?

Yes No

3. Do you observe this stream system during regular fieldwork?

Yes No

If yes, what are your observations for the stream? The groundwater fluctuates on a yearly basis due to climate conditions.

4. If the source is a well and if WRD were to determine that there is the potential for substantial interference with nearby surface water sources, would there still be ground water and surface water available during the time requested and in the amount requested without injury to existing water rights?

Yes No N/A

What would you recommend for conditions on a limited license that may be issued approving this application? Totalizing Flow meter installed prior to diversion of water. Mitigate for the consumptive use in the appropriate mitigation zone.

5. Any other recommendations you would like to make?

Applicant to keep seasonal pumping records

Signature [Signature] WM District #: 11 Date: 3-2-17

This page to be completed by the local Watermaster.

WATER AVAILABILITY STATEMENT

Name of Applicant: _____ Limited License Number: _____

1. To your knowledge, has the stream or basin that is the source for this application ever been regulated for prior rights?

Yes No

If yes, please explain:

2. Based on your observations, would there be water available in the quantity and at the times needed to supply the use proposed by this application?

Yes No

3. Do you observe this stream system during regular fieldwork?

Yes No

If yes, what are your observations for the stream?

4. If the source is a well and if WRD were to determine that there is the potential for substantial interference with nearby surface water sources, would there still be ground water and surface water available during the time requested and in the amount requested without injury to existing water rights?

Yes No N/A

What would you recommend for conditions on a limited license that may be issued approving this application?

5. Any other recommendations you would like to make?

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Signature _____ WM District #: _____ Date: _____

Attachment/Remarks

Description of Proposed Project:

This application requests short-term/ limited duration authorization for use of groundwater for aesthetic and fire protection use through reservoir storage in two existing interconnected ponds on property owned by the Applicant, KC Development Group, LLC (“KCDG”), and for on-going temporary use for reservoir maintenance for a period of five years or until the related groundwater permit application G-18422 is approved.

The reservoir system was originally constructed in cooperation with Tumalo Irrigation District (TID), with the intention of being used as part of the TID irrigation distribution system and for recreational use by KCDG. The system also served as a pass-through and temporary holding for irrigation water received by KCDG for use on KCDG lands served by TID. As described in other applications previously filed with OWRD, under the original plan, water for storage in the ponds was to be transferred from existing water rights held by TID for storage in the Tumalo Reservoir (Application T-11833, Temporary In-District Transfer; and Application T-11951, Permanent In-District Transfer.) Following denial of the in-district transfer applications, TID filed new applications for a Limited License to fill the reservoir with water currently stored in Crescent Lake (Application LL-1613) and a permanent water right transfer of storage (Application T-12187). Because of the inability to secure required land use approvals for the proposed uses by TID, Applications LL-1613 and T-12187 have been withdrawn, and KCDG now seeks authorization to fill and maintain the two ponds for aesthetic and fire protection purposes consistent with currently allowed uses in Deschutes County.

This application requests short-term authorization to use and store groundwater as a bridge while pursuing approval of Application G-18422, and as permitted under ORS 537.143(1). Groundwater would be supplied from an existing well on the property (Desc 59909, copy of the well log is attached.) KCDG does not intend to withdraw water from the reservoir system for secondary use, except as may be required for emergency fire-fighting purposes. The reservoir system is fully lined and thus will not be subject to seepage losses. Water for pond maintenance to offset evaporative losses is intended to be provided from the same well. Evaporative losses are estimated at up to 44 AF/year, based on up to 2 AF of loss per surface area acre.

KCDG is prepared to provide mitigation for the proposed short-term groundwater use as needed to offset impacts to surface water and in a manner consistent with the mitigation requirements for new groundwater permits under OAR 690-505-0600 *et seq.*

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(1) LAND OWNER Owner Well I.D. _____
 First Name HARRIS Last Name KIMBBLE
 Company KC DEVELOPMENT GROUP LLC
 Address 63560 JOHNSON RD
 City BEND State OR Zip 97701

(2) TYPE OF WORK New Well Deepening Conversion
 Alteration (complete 2a & 10) Abandonment (complete 5a)

(2a) PRE-ALTERATION
 Dia + From To Gauge Stl Plstc Wld Thrd
 Casing:
 Material From To Amt sacks/lbs
 Seal:

(3) DRILL METHOD
 Rotary Air Rotary Mud Cable Auger Cable Mud
 Reverse Rotary Other _____

(4) PROPOSED USE Domestic Irrigation Community
 Industrial/ Commercial Livestock Dewatering
 Thermal Injection Other _____

(5) BORE HOLE CONSTRUCTION Special Standard (Attach copy)
 Depth of Completed Well 751.00 ft.
 BORE HOLE SEAL sacks/lbs

Dia	From	To	Material	From	To	Amt	lbs
12	0	78	Cement	0	78	55	S
8	78	751					

How was seal placed: Method A B C D E
 Other _____
 Backfill placed from _____ ft. to _____ ft. Material _____
 Filter pack from _____ ft. to _____ ft. Material _____ Size _____
 Explosives used: Yes Type _____ Amount _____

(5a) ABANDONMENT USING UNHYDRATED BENTONITE
 Proposed Amount _____ Actual Amount _____

(6) CASING/LINER

Casing	Liner	Dia	+	From	To	Gauge	Stl	Plstc	Wld	Thrd
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	8	<input checked="" type="checkbox"/>	1	78	.250	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	6	<input checked="" type="checkbox"/>	1	751	.188	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

 Shoe Inside Outside Other Location of shoe(s) _____
 Temp casing Yes Dia _____ From _____ To _____

(7) PERFORATIONS/SCREENS
 Perforations Method MACHINE
 Screens Type _____ Material _____

Perf/ Screen	Casing/ Liner	Screen Dia	From	To	Scrnm/slot width	Slot length	# of slots	Tele/ pipe size
Perf	Liner	6	711	751	.125	3	456	

(8) WELL TESTS: Minimum testing time is 1 hour
 Pump Bailer Air Flowing Artesian

Yield gal/min	Drawdown	Drill stem/Pump depth	Duration (hr)
50		750	1

 Temperature 53 °F Lab analysis Yes By _____
 Water quality concerns? Yes (describe below) TDS amount

From	To	Description	Amount	Units

(9) LOCATION OF WELL (legal description)
 County DESCHUTES Twp 17.00 S N/S Range 11.00 E E/W WM
 Sec 13 SW 1/4 of the NW 1/4 Tax Lot 823
 Tax Map Number _____ Lot _____
 Lat _____ " or 44.10525000 DMS or DD
 Long _____ " or -121.35875000 DMS or DD
 Street address of well Nearest address
KI.IPPEL RD

(10) STATIC WATER LEVEL

Existing Well / Pre-Alteration	Date	SWL (psi)	+	SWL (ft)
Completed Well	2/24/2014			533

 Flowing Artesian? Dry Hole?
 WATER BEARING ZONES Depth water was first found 635.00

SWL Date	From	To	Est Flow	SWL (psi)	+	SWL (ft)
2/7/2014	635	751	50			533

(11) WELL LOG Ground Elevation 3505.00

Material	From	To
SAND PUMICE	0	1
GRAVELS COBBLES	1	16
PUMICE	16	35
LAVA BROKEN	35	50
CONGLOMERATE BROWN	50	66
LAVA	66	90
SANDSTONE	90	110
BASALT MEDIUM	110	125
BASALT HARD	125	146
SANDSTONE	146	190
BASALT CLAY SEAMS	190	230
CINDERS	230	258
LAVA CINDERS CAVING	258	315
LAVA FRACTURED	315	426
CINDERS	426	440
LAVA GRAY BROKEN FRACTURED LAYERS	440	524
BASALT CLAY SEAMS BROWN	524	528
BASALT FRACTURED LAYERS WITH CLAY SE	528	751

Date Started 2/18/2014 Complete 2/24/2014

(unbonded) Water Well Constructor Certification
 I certify that the work I performed on the construction, deepening, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.
 License Number 758 Date 2/25/2014
 Signed THOMAS R PECK (E-filed)

(bonded) Water Well Constructor Certification
 I accept responsibility for the construction, deepening, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.
 License Number 1720 Date 2/26/2014
 Signed JACK ABBAS (E-filed)
 Contact Info (optional) _____

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 MAR 03 2014
 SALEM, OR