



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

Commerce Building
158 12th Street NE
Salem, OR 97301-4172
503-378-3739
FAX 503-378-8130

THIS IS AN INITIAL REVIEW OF APPLICATION G-15742.

**THIS IS NOT A WATER RIGHT PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

August 25, 2003

CRAIG PETRIE
18262 SW BRYANT ROAD
LAKE OSWEGO, OREGON 97034

Reference: File G- 15742

Dear Applicant:

This document is the Department's preliminary analysis of your water use request called an Initial Review (IR). The purpose of the IR is to make a "first-cut" evaluation of the application, specifically focusing on whether the use is restricted by statute or rule and whether water is available for the proposed use. The IR is also meant to highlight issues and determinations that may preclude approval of the use or that may lead to restrictions.

This letter is to inform you of the unfavorable preliminary analysis of your water use application. The unfavorable analysis stems from the Department's determination that the proposed well is hydraulically connected to the Deschutes River and has the potential for substantial interference. When the Department determines that a potential for substantial interference with surface water exists, it is required to not only evaluate your application with respect to ground water laws and rules but it is also required to consider laws and rules governing the (hydraulically connected) surface water source.

Initial Review Determinations:

In determining whether a water use permit application may be approved, the Department must consider the factors listed below. Based on the information you have supplied, and a review of your request by the Department's Ground Water/Hydrology Section, the Department has made the following preliminary determinations. Each paragraph is labeled either "favorable," "limited," or "unfavorable." "Favorable" paragraphs will not adversely affect the review of the



application; “limited” paragraphs will likely cause limitations to what was applied for; and “unfavorable” paragraphs will likely prevent issuance of a permit (unless able to be addressed through mitigation. See the mitigation section below.)

1. Favorable: Use of groundwater for the proposed use is not restricted or limited by statute or rule.
2. Favorable: The ground water of the Deschutes Basin is classified for maintenance of a pond for fire protection under OAR 690-505-0400(1).
3. Ground water is available for the proposed use. However, the proposed use of ground water is located within the Deschutes Ground Water Study Area and subject to the Deschutes Ground Water Mitigation Rules, OAR 690-505-0500 through 0630. The Department has determined that the proposed ground water source is hydraulically connected to Deschutes River and will have the potential for substantial interference under OAR 690-09. The following limitations and public interest considerations related to the surface water source must be considered in the evaluation of this application:
 - A) Unfavorable: Surface water is not available at any time of the year due to prior, senior water rights on Deschutes River and downstream waters. OAR 690-410-070 and 690-400-010(11).
 - B) Unfavorable: 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)(a)).
 - C) Unfavorable: The mainstem Deschutes River is a State Scenic Waterway. The proposed use of ground water 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.

Summary and Options

Because of items A, B and C above, use of 0.056 cubic feet per second of water from a well(s) in the Deschutes River basin for maintenance of a pond for fire protection cannot be allowed.

Overcoming the Unfavorable Determinations (Notice of Mitigation Obligation)

The well(s) proposed in your pending ground water application are located in the Deschutes Basin Ground Water Study Area (Study Area). A water right permit must be issued before you can lawfully use water as proposed in your application. Because of the location of your well(s), unless you provide mitigation, by law, the Water Resources Department is required to deny your application. The unfavorable findings of this IR may be overcome if you provide mitigation pursuant to the Deschutes Ground Water Mitigation Rules, OAR 690-505-0500 through 0630.

These Mitigation rules provide a process under which ground water applicants may mitigate for the impact that their proposed ground water use would have on surface water flows, if approved.

This Notice of Mitigation Obligation is to inform you of the requirement to provide mitigation; to inform you of the amount and the location of the mitigation required; and to describe options for satisfying your mitigation obligation. The administrative rules detailing the mitigation requirements and standards are attached for your assistance.

Department staff will be available to answer your questions about the mitigation program and your specific requirements on September 9 and 10, 2003 between 6:30 pm and 8:00 pm at the Department's Region Office in Bend. The Bend office is located at 1340 NW Wall Street, Suite 100. You can also directly contact Laura Snedaker at (503) 378-8455 ext. 331 if you have any questions.

The Department has determined your mitigation obligation to be 2.67 acre-feet of water annually. The required mitigation is based on the following use(s) described below.

2.67 acre-feet for maintenance of a pond with 1.0 acre of surface area for fire protection

Location of Mitigation: The Department has determined your mitigation must be located in the **General Zone of Impact** - is defined as anywhere in the Deschutes Basin above the Madras gage, located on the Deschutes River below Lake Billy Chinook.

Options: To satisfy your mitigation obligation you can either complete a mitigation project as described in the attached administrative rules or obtain 2.67 qualifying mitigation credits from an individual or mitigation bank. If you are interested in obtaining mitigation credits you may want to contact the Deschutes Water Exchange Mitigation Bank at (541) 382-4077 or contact the Department for a list of other mitigation credit holders.

You must respond to this letter within 30 days of the date of this letter with your proposal for satisfying your mitigation obligation. If you propose to obtain mitigation credits, please include a statement identifying that you intend to obtain sufficient mitigation credits to satisfy your mitigation obligation. You should also identify from whom you intend to obtain those credits. If you decide to purchase mitigation credits at this time, you must submit a documentary evidence form demonstrating that you have obtained mitigation credits. The mitigation bank should provide you with a complete form. Or if you obtain credits from another individual, you will need to work with that individual to complete the documentary evidence form. Blank forms may be obtained from the Department at the above address or the Bend Region 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 the Department for further information on mitigation projects and what needs to be included with your proposal.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$50 processing charge per application.) To accomplish this you must notify the Department in writing by September 8, 2003. For your convenience you may use the enclosed "STOP PROCESSING" form.

To Request an Administrative Hold

At your request, the Department can automatically place the application on-hold for 180 days. An administrative hold for more than 180 days may be granted upon a finding by the Director that the request is reasonable and necessary. As described above, the Department is unable to favorably review your application at this time. Due to the time necessary to process obtain mitigation it may be necessary for you request a delay in the processing of your application.

To request delay of the processing your application notify the Department in writing by Thursday, September 25, 2003. Please be sure to specify how long you would like your application to be on hold.

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.

Finally, in the event a permit is issued, the following standard conditions will likely apply:

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 subsequently reduced.

GROUND WATER MITIGATION CONDITIONS

Mitigation Obligation: Ground Water Consumptive Use: 2.67 acre-feet in the General Zone of Impact

Mitigation Source: SOURCE OF MITIGATION WATER TO BE IDENTIFIED BY APPLICANT

Measurement, recording and reporting conditions:

- A. Before water use may begin under this permit, the permittee shall install a meter or other suitable measuring device as approved by the Director. The permittee shall maintain the meter or measuring device in good working order, shall keep a complete record of the amount of water used 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.
- B. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where the meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.

Mitigation water must be legally protected instream for instream use within the the General Zone of Impact and committed 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.

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.

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.

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 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 prior to use of water.

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).

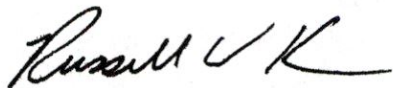
The tentative priority date for this application is April 12, 2002.

If you have any questions:

Questions about the status of your application, processing timelines, or your upcoming Proposed Final Order should be directed to our Water Right Information Group at 503-378-8455 extension 201. Feel free to call me at 503-378-8455 extension 266 if you have any questions regarding the contents of this letter, about your mitigation obligation, and/or need to clarify or amend your

application. You may also contact Laura Snedaker, Senior Water Resources Coordinator, with questions about the mitigation program. She can be reached at extension 331. Please have your application number available if you call. Address all other correspondence to: Water Rights Section, Oregon Water Resources Department, 158 12th ST. NE Salem, OR 97301-4172, Fax: 503-378-6203.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell W. Klassen". The signature is fluid and cursive, with a large initial "R" and a stylized "K".

Russell W. Klassen
Water Rights Specialist

G- 15742
wab 05-70752
pou 05-70752
gw A

APPLICATION FACT SHEET

Application File Number: G- 15742

Applicant: CRAIG PETRIE

County: DESCHUTES

Watermaster: District 11

Priority Date: April 12, 2002

Source: DESCHUTES RIVER BASIN

Use: MAINTENANCE OF A RESERVOIR FOR FIRE PROTECTION

Quantity: 0.056 CFS IN A 7.0 ACRE-FOOT POND

Basin Name & Number: Deschutes, Basin #5

Stream Index Reference:

Well Location: NW 1/4 NE 1/4, SECTION 23, TOWNSHIP 17 SOUTH, RANGE 11 EAST

14 DAY STOP PROCESSING DEADLINE DATE: SEPTEMBER 8, 2003

PUBLIC NOTICE DATE: Tuesday, AUGUST 26, 2003

30 DAY COMMENT DEADLINE DATE: Thursday, SEPTEMBER 25, 2003

11E. W.M.
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Basin



Subject Property:
TL 100
MAP 17 11 23
Deschutes County Oregon

17 11 23

