



# Oregon

Theodore R. Kulongoski, 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 31, 2007

### **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

KENNETH LANE  
VANDEVERT RANCH ASSOCIATION  
PO BOX 1572  
BEND OR 97709

Reference: File G-16769

## **INITIAL REVIEW**

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

Dear Kenneth Lane:

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 storage of 24.6 acre feet (AF) of ground water for year-round multiple purpose, and the use of 0.25 cubic foot per second (CFS) for year-round pond maintenance.
2. The proposed use is not prohibited by law or rule except where otherwise noted below.
3. The use of water from a well (DESC 951), tributary to Little Deschutes River for storage of ground water for multiple purpose and pond maintenance 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 source is hydraulically connected to the Little Deschutes 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 Little Deschutes 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 Deschutes River is a State Scenic Waterway.
9. Because your well(s) and place of use are located in the Deschutes Ground Water Study Area, unless you provide mitigation, by law, the Department is required to deny your application. 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). These 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 11.2 acre-feet (AF) annually. The required mitigation is based on the storage of 24.6 AF of ground water for multiple purpose in a pond with a surface area of 4.19 acres, and the use of 0.25 CFS for year-round pond maintenance. The mitigation obligation is calculated based on an evaporation factor of 32 inches per year, which is 2.67 AF per acre of surface area of the reservoir.
11. The Department has determined your mitigation must be located in the Little Deschutes Zone of Impact.
12. The application does not indicate if there will be a dam, and if so, what the dam height will be. Please provide this information. In addition, if the dam height is 10.0 feet or more, engineered plans and specifications must be approved by the Department prior to the issuance of a permit.

#### **Summary of Initial Review**

The storage of 24.6 AF of ground water for year-round multiple purpose, and the use of 0.25 CFS of ground water for year-round pond maintenance from a well (DESC 951), tributary to Little Deschutes River, is not allowable. However, if you provide sufficient mitigation water to offset the proposed use, it may be allowed under OAR 690-505-0610.

#### **Mitigation Obligation Options:**

To satisfy your mitigation obligation you can either complete a mitigation project as described in the attached administrative rules, or obtain 11.2 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 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 me for further information on mitigation projects, forms, and specific requirements to be included in your proposal.

**Withdrawal Refunds:**

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$150 processing charge per application). To accomplish this you must notify the Department in writing by Friday, September 14, 2007. 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, 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, 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.

**Ground Water Mitigation Conditions**

1. Mitigation Obligation: 11.2 acre-feet of mitigation water in the Little Deschutes Zone of Impact (located anywhere in the Little Deschutes River Basin above the mouth of the Little Deschutes River).
2. Mitigation water must be legally protected instream in the Little Deschutes 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.
3. 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.
4. 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.
5. 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 Jeana Eastman. If you have any questions about any of the statements contained in this document, I am probably the best person to answer your questions. You may reach me at 503-986-0859 or [Jeana.M.Eastman@wrд.state.or.us](mailto:Jeana.M.Eastman@wrд.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,



Jeana Eastman  
Water Rights Application Caseworker

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

G-16769  
WAB 5-70757  
POU 5-70757  
GW

# Application Fact Sheet

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

Application Number: G-16769

Applicant: KENNETH LANE, PO BOX 1572, BEND OR 97709

County: DESCHUTES

Watermaster: District 11

Priority Date: DECEMBER 26, 2006

Source: A WELL (DESC 951)

Use: STORAGE OF GROUND WATER FOR MULTIPLE PURPOSE, AND POND MAINTENANCE

Quantity: 24.6 ACRE FEET, AND 0.25 CUBIC FOOT PER SECOND

Basin Name & Number: Deschutes, #5

Point of Appropriation:

Twp	Rng	Mer	Sec	Q-Q	Survey Coordinates
20 S	11 E	WM	17	NW SW	160 FEET SOUTH AND 822 FEET EAST FROM W1/4 CORNER, SECTION 17

Place of Use:

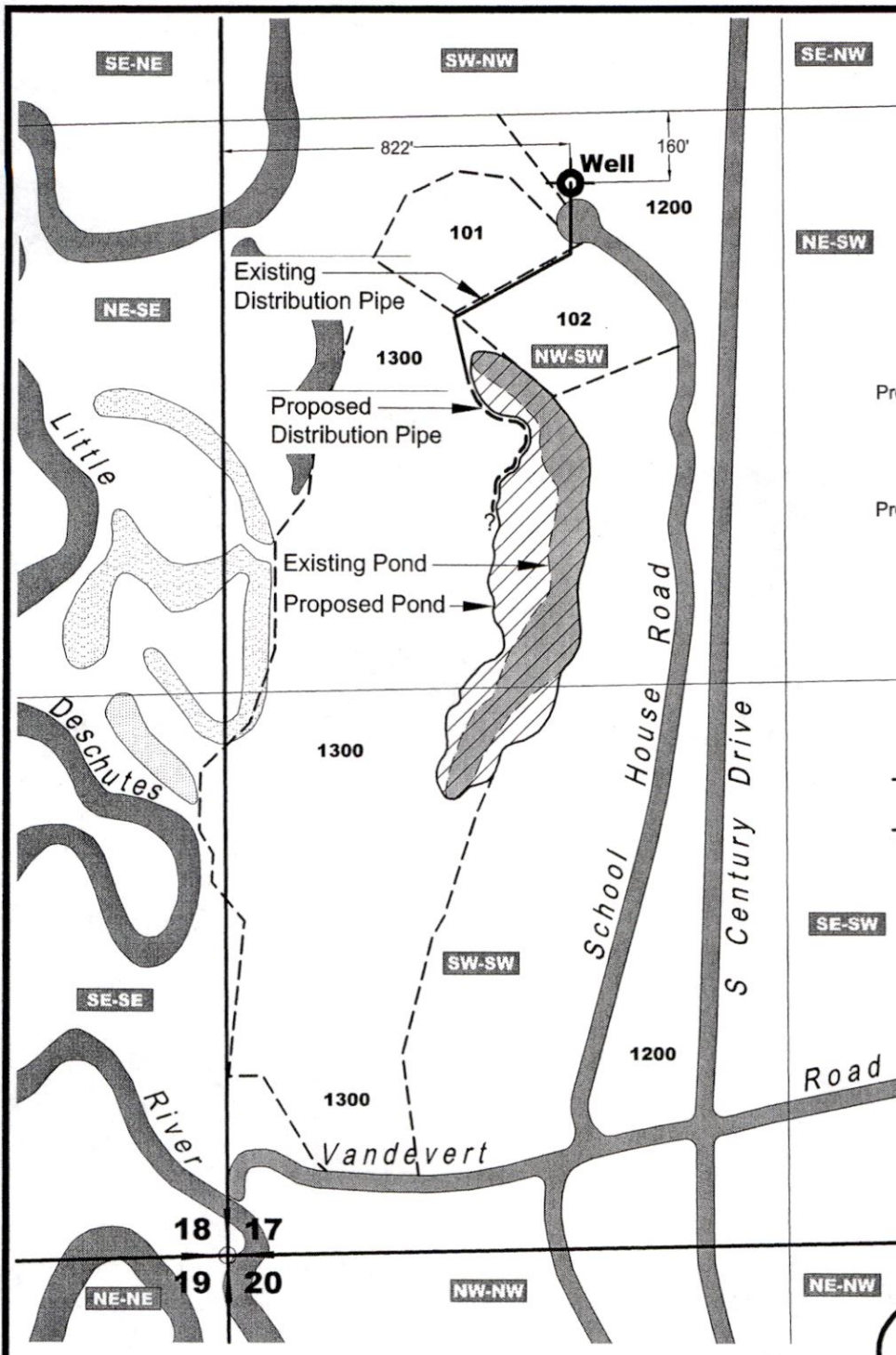
POND MAINTENANCE				
Twp	Rng	Mer	Sec	Q-Q
20 S	11 E	WM	17	NW SW
20 S	11 E	WM	17	SW SW

STORAGE				
Twp	Rng	Mer	Sec	Q-Q
20 S	11 E	WM	17	NW SW
20 S	11 E	WM	17	SW SW

**Public Notice Date: Tuesday, September 4, 2007**

**14-day Stop Processing Deadline: Friday, September 14, 2007**

**End of 30-day Comment Period: Thursday, October 4, 2007**



**NOTE**  
 THIS MAP WAS PREPARED FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF WATER RIGHTS ONLY AND IS NOT INTENDED TO PROVIDE LEGAL DIMENSIONS OR LOCATIONS OF PROPERTY OWNERSHIP LINES.

Proposed Pond Surface area

Pond	184,086 SQ.FT.	4.23 Ac
Island	1,730 SQ.FT.	0.04 Ac
	<u>182,356 SQ.FT.</u>	<u>4.19 Ac</u>

Proposed Pond Volume  
 24.6 Acre-Feet

**LEGEND**

Place of Proposed Water Use

Location	Pond Surface Area
Section 17 NW-SW	3.18 Ac
Section 17 SW-SW	1.01 Ac
	<u>4.19 Ac</u>

North Arrow

Certified Water Rights Examiner  
 418 WRE  
 DAVID J. NEWTON  
 JAN. 16, 1996  
 STATE OF OREGON

RECEIVED  
 DEC 26 2006  
 WATER RESOURCES DEPT  
 SALEM, OREGON

0' 400' 800'  
 SCALE: 1" = 400'

**WATER RIGHT MAP**  
 Located in Township 20S, Range 11E, W.M.  
 Sections 17  
 Deschutes County, Oregon

**NEWTON CONSULTANTS INC.**  
 Earth, Water and Rock Specialists  
 Ph: 541 504-9960 Fax: 541 504-9961

Water Rights Map  
 Rainbow Reservoir - Vandeventer Ranch  
 Deschutes County, Oregon

DESIGNED BY: D. Newton	DRAWN BY: S. Schenck	DATE: Nov 2006	PROJECT NO. 1043-101	FIGURE 2
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app no G-16769

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**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): KENNETH LANE

Applicant's agent (if applicable): REAGAN DESMOND; DAVID NEWTON

Application number: G-16769

Proposed Use: STORAGE OF GROUND WATER FOR MULTIPLE PURPOSE, AND POND  
MAINTENANCE

Period of Use: year-round

Rate requested: 24.6 ACRE FEET, AND 0.25 CUBIC FOOT PER SECOND

Volume requested: 205.6 acre-feet (24.6 AF for storage, 181.0 AF for pond maintenance)

Mitigation Obligation: 11.2 acre-feet

Zone of Impact: Little Deschutes 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:

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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)

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or

Applicant's agent

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Date \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Mail to:       Attn: Jeana Eastman  
                  Oregon Water Resources Department  
                  725 Summer St NE Suite A  
                  Salem OR 97301-1266