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Fee: \$41.00

BEFORE THE PLANNING DIRECTOR KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 33-09)
 OREGON DEPARTMENT OF FISH AND)
 WILDLIFE FOR RUNNING Y RANCH TO)
 CONSTRUCT AN IRRIGATION INTAKE)
 STRUCTURE WITH A FISH SCREEN)
 WITHIN THE GEARY ARM OF UPPER)
 KLAMATH LAKE ON PROPERTY)
 ZONED (EFU-CG) EXCLUSIVE FARM)
 USE, IDENTIFIED AS: R-3808-00700-)
 00200.)

CUP TYPE II
 ADMINISTRATIVE
FINAL ORDER

1. NATURE OF THE REQUEST:

The applicant requests a Conditional Use Permit to build a fish screen and irrigation intake structure within the Geary Arm of Upper Klamath Lake on property zoned Exclusive Farm Use. The Planning Director reviewed the request on August 26, 2009 pursuant to KCLDC Article 22 – Administrative Review Procedure, Article 32 – Public Notice, Article 44 – Conditional Use Permit.

2. NAMES OF THOSE WHO PARTICIPATED:

The Planning Director in review of this application was Leslie C. Wilson. Mark Gallagher, Planner, prepared the Final Order.

3. LEGAL DESCRIPTION:

The subject property described in Conditional Use Permit File CUP 33-09 located in the Planning Department is described as Township 38 South, Range 08, Section 07 East Willamette Meridian, Tax Account R-3808-00700-00200.

4. RELEVANT FACTS:

The subject parcel is lawfully created per deed number MTC-32064, dated April 7, 1994. Response for agency comments were received by the Bureau of Reclamation with a "No Comment" other than to say that this project "is an on-going effort as part of the Upper Klamath Lake Fish Screen Program"... A "No Comment" response was received from KC Public Works and ODOT also had "No Comment."

5. FINDINGS:

All evidence submitted shows that the approval criteria as set out in the code have been satisfied. The Planning Director finds this application does conform to criteria set out as follows:

KCLDC Article 44.030(A-C)

- A. The use complies with the Klamath County Comprehensive Plan Goal 1-Citizen Involvement, Goal 2-Land Use Planning and promotes Goal 5-Open Spaces, Scenic and Historic Areas, and Natural Resource, more specifically Policies 3, 4, and 16, protecting and enhancing riparian areas and Goal 5 resources.

- B. The proposed operation can be brought into compliance with Article 57 and Article 59 of the Klamath County Land Development Code through conditions of approval.
- C. There should be minimal impact to the surrounding area because the project is entirely contained on property owned by the application. Flood waters are not to be increased. Applicant will be required to supply a no-rise certificate to demonstrate compliance with KCLDC Article 59. A no-rise certificate would ensure that there were no other impacts to the surrounding properties.

KCLDC Article 57.060(A-D)

- A. The project will enhance the irrigation intake to be more fish friendly by adding the screens.
- B. The project is intended to improve the situation for any threatened or endangered species and the applicant is the Oregon Department of Fish and Wildlife.
- C. The project will not have any adverse impacts on resources.
- D. The project will not have any adverse impacts on the resources so the siting is not an issue.
- E. The applicant has made sure the appropriate resource agencies have reviewed the proposal.

6. ORDER:

Therefore, upon review of the information and exhibits, it is ordered that the request of the Oregon Department of Fish and Wildlife for the Running Y Ranch for approval of CUP 33-09 is **APPROVED** subject to all Federal and State law, rules, or policy; Klamath County Land Development Code and County Ordinances; Oregon Fire Codes and Appendices; Oregon Building Codes and Appendices; Klamath County Public Works Standards, Policies, and Procedures; and, subject to the following additional Conditions of Approval:

Condition # 1

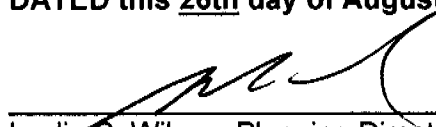
Applicant must supply copies of all final State and Federal permits to the Planning Department prior to start of construction.

Condition #2

Prior to application for site development permits, the applicant must submit applicable County Clerk recording fees to the Planning Department who will record the final order on behalf of the applicant.

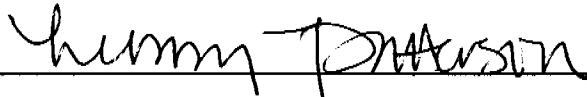
Approval Expiration: This approval will expire two years from the date of approval unless final Planning approval has been issued. The applicant may apply for up to three 1-year time extensions with the appropriate application and fee.

DATED this 26th day of August, 2009.



Leslie C. Wilson, Planning Director

Signed & Acknowledged before me this 24 day of September, 2009.



NOTARY PUBLIC FOR OREGON

My Commission Expires:

August 19, 2013



NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Klamath County Board of County Commissioners. Notice of intent to appeal a decision rendered under the procedures of the Klamath County Land Development Code shall be filed no later than 12 days following mailing of the final order (ORS 215.427). Failure to do so in a timely manner may affect your rights. Notice shall be in the form of a signed letter, shall state the name(s) of the party or parties appealing the decision, and must be received by the Planning Department before the close of business on the seventh day. The fee established by the Board of County Commissioners shall accompany the notice of appeal.

KCLDC ARTICLE 33.040 - STATEMENT OF APPEAL

No later than 12 days following the filing of a notice of appeal, pursuant to Section 33.030, the appellant shall file with the Planning Department a written statement of grounds for the appeal explaining:

- A. How the Comprehensive Plan, Klamath County Land Development Code, or applicable State law was incorrectly interpreted or applied in the decision; or*
- B. What information in the record of decision was pertinent to the decision, but was not considered by the review body*

For more information, please contact:

**Klamath County Planning Department
Phone 1-541-883-5121 or mail at 305 Main Street, Klamath Falls, Oregon 97601**

Exhibits:

Conditional Use Permit Application
Site Plan
Vicinity Map
Site Map with Zoning and Tax Lots
FEMA Firmette
Ownership Deed

Exhibit 1
Exhibit 2
Exhibit 3
Exhibit 4
Exhibit 5
Exhibit 6