



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Measure 49 Development Services Division

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February 23, 2010

David Hurtley  
P O Box 1511  
Sisters, OR 97759

RE: Final Order for M37/49 Claim E120363

Dear David Hurtley:

During the 2009 legislative session, the Oregon State Legislature amended Measure 49 through the passage of House Bill 3225. Section 7 of House Bill 3225 states that "a claimant is not entitled to implement relief under the theory of common law vested right and under sections 5 to 11, chapter 424, Oregon law 2007 [Measure 49]."

The Department of Land Conservation and Development (the department) records indicate that you submitted a Measure 49 Election, requesting supplemental review of claim M120363 under section 6 of Measure 49.

Based upon a November 12, 2009 Deschutes County vested rights determination, it appears that you have been determined to have a common law vested right to complete and continue a use described in your Measure 37 waiver. Accordingly, under House Bill 3225 you are not entitled to implement relief under both a common law vested right and under the Measure 49 Home Site Authorization previously issued. As a result, this Final Order supersedes the Final Order for claim E120363 issued on September 9, 2009 and you are no longer entitled to the relief described in the Final Order for claim E120363.

Although you are no longer entitled to relief under Section 6 of Measure 49, this Final Order has no affect on the vested rights determination you received from Deschutes County. If the department's information is not correct and you have not received a final vested rights determination, or if you have any questions regarding your entitlement to relief under Measure 49, please contact this office at 503-373-0050 ext 324 or via e-mail at [measure49.info@state.or.us](mailto:measure49.info@state.or.us).

This correspondence concerning claim E120363 is a Final Order from the department in other than a contested case. Please note that you have the right to petition the agency for reconsideration or judicial review of this Final Order under ORS 183.484.

Sincerely,

Judith Moore  
Division Manager

cc: Edward Fitch, Bryant Emerson & Fitch, LLP  
Deschutes County