



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Measure 49 Development Services Division

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February 23, 2010

John Kroo and Elisabeth Kroo  
18108 NE Bald Peak Road  
Newberg, OR 97132

RE: Final Order for M37/49 Claim E122329

Dear John Kroo and Elisabeth Kroo:

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 M122329 under section 6 of Measure 49.

Based upon a Yamhill County judgment entered on March 12, 2009 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 HB 3225 you are not entitled to supplemental review of your Measure 37 claim under Measure 49. As a result, your Measure 49 Election will not be further processed. Claim E122329 will be closed and the department will take no further action regarding the review of the claim.

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 E122329 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: Samuel R. Justice, Haugeberg, Rueter et al., PC  
Yamhill County